

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PHILLIP R. HERNANDEZ,

 Petitioner,

 v.

JOSIE GASTELO,

 Respondent.

No. 2:19-cv-02414 KJM DB P

ORDER

Petitioner, a state prisoner proceeding pro se, filed an application for a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 30, 2023, the magistrate judge filed findings and recommendations, which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within 30 days. Neither party filed objections to the findings and recommendations.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s conclusions of law are reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court


////

1 . . .”). Having reviewed the file, the court finds the findings and recommendations to be
2 supported by the record and by the proper analysis

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The findings and recommendations filed August 30, 2023 (ECF No. 34), are adopted in
5 full;
- 6 2. The petition for writ of habeas corpus (ECF No. 3) is denied;
- 7 3. The clerk of court is directed to close this case; and
- 8 4. The court declines to issue the certificate of appealability referenced in 28 U.S.C.
9 § 2253.

10 DATED: December 28, 2023.

11 
12 _____
13 CHIEF UNITED STATES DISTRICT JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28