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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

STEVEN GILMORE,

Petitioner,

v.

JEANNE WOODFORD, Acting  
Secretary of the California Department  
of Corrections and Rehabilitation,

Respondent.

CASE NO. 05-CV-1863 W (WMc)

**ORDER ADOPTING THE  
REPORT &  
RECOMMENDATION AND  
DENYING THE PETITION**

Petitioner seeks 28 U.S. § 2254 habeas relief. On August 17, 2006 Magistrate Judge William McCurine, Jr. issued a Report and Recommendation (“Report”) recommending that this Court deny the Petition. Objections to the Report were due no later than August 29, 2006. To date, Petitioner has neither submitted objections nor requested additional time in which to do so.

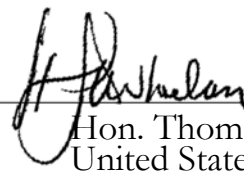
A district court’s duties concerning a magistrate judge’s report and recommendation and a respondent’s objections thereto are set forth in Rule 72(b) of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). When no objections are filed, the district court is not required to review the magistrate judge’s report and recommendation. See United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir.

1 2003) (holding that 28 U.S.C. 636(b)(1)(c) “makes it clear that the district judge must  
2 review the magistrate judge’s findings and recommendations de novo *if objection is made,*  
3 *but not otherwise*”) (emphasis in original); Schmidt v. Johnstone, 263 F. Supp. 2d 1219,  
4 1226 (D. Arizona 2003) (concluding that where no objections were filed the District  
5 Court had no obligation to review the magistrate judge’s Report). This rule of law is  
6 well established within the Ninth Circuit and this district. See Wang v. Masaitis, 416  
7 F.3d 992, 1000 n. 13 (9th Cir. 2005) (“Of course, de novo review of a R & R is *only*  
8 required when an objection is made to the R & R) (emphasis added) (citing Renya-Tapia,  
9 328 F.3d 1121); Nelson v. Giurbino, 395 F. Supp. 2d 946, 949 (S.D. Cal. 2005) (Lorenz,  
10 J.) (adopted Report without review because neither party filed objections to the Report  
11 despite the opportunity to do so, “accordingly, the Court will adopt the Report and  
12 Recommendation in its entirety.”); see also Nichols v. Logan, 355 F. Supp. 2d 1155,  
13 1157 (S.D. Cal. 2004) (Benitez, J.).

14 Here, Plaintiff has tendered no objections to the Report nor requested an  
15 extension of time in which to do so. The Court therefore accepts Judge McCurine’s  
16 recommendation that the Petition be denied and **ADOPTS** the Report in its entirety.  
17 For the reasons stated in the Report, which is incorporated herein by reference, the  
18 Court **DENIES** Petitioner’s request for habeas relief. (*Doc. No. 1.*) The district court  
19 clerk shall close the district court case file.

20  
21 **IT IS SO ORDERED.**

22  
23 DATED: September 8, 2006

24  
25   
26 Hon. Thomas J. Whelan  
United States District Judge

27 CC: ALL PARTIES  
28 HONORABLE WILLIAM MCCURINE, JR., UNITED STATES MAGISTRATE JUDGE