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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JOSEPH RINALDI,)	Civil No. 08cv1637-L(POR)
)	
Petitioner,)	ORDER (1) ADOPTING REPORT
)	AND RECOMMENDATION; AND
v.)	(2) DENYING PETITION
)	
M. E. POULOS <i>et al.</i> ,)	
)	
Respondents.)	
_____)	

Petitioner Joseph Rinaldi, a state prisoner proceeding *pro se*, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. The case was referred to United States Magistrate Judge Louisa S. Porter for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and Civil Local Rule 72.1(d). Respondents filed a response and Petitioner filed a traverse. On July 29, 2010 the Magistrate Judge issued a Report and Recommendation, recommending to deny the Petition. Petitioner has not filed any objections.


A district judge “may accept, reject, or modify the recommended disposition” on a dispositive matter prepared by a magistrate judge proceeding without the consent of the parties for all purposes. Fed. R. Civ. P. 72(b); *see* 28 U.S.C. § 636(b)(1). “The court shall make a *de novo* determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). When no objections are filed, the *de novo* review is waived. Section 636(b)(1) does not require review by the district court under a lesser standard. *Thomas*

1 v. *Arn*, 474 U.S. 140, 149-50 (1985). The “statute makes it clear that the district judge must
2 review the magistrate judge’s findings and recommendations *de novo if objection is made, but*
3 *not otherwise.*” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*)
4 (emphasis in the original); *see Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1225-26 & n.5 (D.
5 Ariz. 2003) (applying *Reyna-Tapia* to habeas review).

6 In the absence of objections, the court **ADOPTS** the Report and Recommendation. For
7 the reasons stated in the Report and Recommendation, the Petition is **DENIED**. For the same
8 reasons, certificate of appealability is **DENIED**.

9 **IT IS SO ORDERED.**

10
11 DATED: October 18, 2010

12
13 
M. James Lorenz
United States District Court Judge

14 COPY TO:

15 HON. LOUISA S. PORTER
UNITED STATES MAGISTRATE JUDGE

16 ALL PARTIES/COUNSEL