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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MYRON THOMAS,

Petitioner,

vs.

MATTHEW CATE, Secretary, et al.,

Respondents.

CASE NO. 08-CV-1843 W (JMA)

**ORDER (1) ADOPTING REPORT
AND RECOMMENDATION
[DOC. 20], (2) DENYING
PETITION [DOC. 1], AND
(3) DENYING CERTIFICATE OF
APPEALABILITY**

Myron Thomas (“Petitioner”), a state prisoner proceeding *pro se*, filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 (“Petition”). On March 1, 2010, Respondents filed an answer to the Petition.

On December 7, 2010, United States Magistrate Judge Jan M. Adler issued a Report and Recommendation (“Report”), recommending that this Court deny the Petition, and dismiss the case with prejudice. The Report also ordered that any objections were to be filed by January 6, 2011, and any reply filed by January 26, 2011. To date, no objection has been filed, nor has there been a request for additional time in which to file an objection.

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

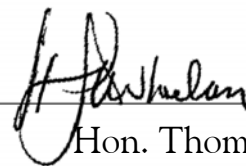
1 recommendation. See United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir.
2 2003) (holding that 28 U.S.C. 636(b) (1) (c) “makes it clear that the district judge must
3 review the magistrate judge’s findings and recommendations de novo *if objection is made*,
4 but not otherwise”) (emphasis in original); Schmidt v. Johnstone, 263 F. Supp. 2d 1219,
5 1226 (D. Arizona 2003) (concluding that where no objections were filed, the District
6 Court had no obligation to review the magistrate judge’s Report). This rule of law is
7 well established within the Ninth Circuit and this district. See Wang v. Masaitis, 416
8 F.3d 992, 1000 n. 13 (9th Cir. 2005) (“Of course, de novo review of a R & R is *only*
9 required when an objection is made to the R & R.”) (emphasis added) (citing Reyna-
10 Tapia, 328 F.3d 1121); Nelson v. Giurbino, 395 F. Supp. 2d 946, 949 (S.D. Cal. 2005)
11 (Lorenz, J.) (adopted Report without review because neither party filed objections to the
12 Report despite the opportunity to do so, “accordingly, the Court will adopt the Report
13 and Recommendation in its entirety.”); see also Nichols v. Logan, 355 F. Supp. 2d 1155,
14 1157 (S.D. Cal. 2004) (Benitez, J.).

15 Accordingly, because no objection has been filed, the Court accepts Judge Adler’s
16 recommendation, and **ADOPTS** the Report in its entirety. For the reasons stated in
17 the Report, which is incorporated herein by reference, the Court **DENIES** the Petition
18 and **ORDERS** this case **DISMISSED WITH PREJUDICE**.

19 Moreover, because reasonable jurists would not find the Court’s assessment of the
20 claims debatable or wrong, the Court **DENIES** a certificate of appealability. See Slack
21 v. McDaniel, 529 U.S. 473, 484 (2000).

22 IT IS SO ORDERED.

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24 DATED: January 26, 2011

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Hon. Thomas J. Whelan
United States District Judge

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