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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

CHRISTOPHER CARREA, JR.,

Petitioner,

vs.

MATTHEW CATE, Secretary,

Respondent.

CASE NO. 08cv2295 WQH (BLM)

ORDER

HAYES, Judge:

The matter before the Court is the Motion to Dismiss (Doc. # 7) filed by Respondent; and the review of the Report and Recommendation (Doc. # 8) filed by Magistrate Judge Barbara L. Major.

On December 1, 2008, Petitioner filed the Petition for Writ of Habeas Corpus (Doc. # 1) pursuant to 28 U.S.C. section 2254. On April 9, 2009, Respondent filed the Motion to Dismiss the Petition. The Motion to Dismiss requests that the Court dismiss the Petition on grounds that Petitioner has failed to complete his state court direct appeal. Petitioner has not filed any opposition to the Motion to Dismiss.

On July 9, 2009, Magistrate Judge Major issued the Report and Recommendation. The Report and Recommendation concluded:

Because Petitioner's first three claims for relief fully meet the requirements of the *Younger* abstention doctrine, and because Petitioner's fourth claim for relief is not cognizable on federal habeas review, this Court recommends that Respondent's Motion to Dismiss be granted without prejudice to Petitioner presenting his claims in a new federal habeas petition filed after the conclusion of his direct appeal.

1 R&R, p. 6. The Report and Recommendation required the parties to file any objections no later
2 than July 24, 2009. No party has filed any objections to the Report and Recommendation.

3 **Standard of Review**

4 The duties of the district court in connection with a Report and Recommendation of a
5 Magistrate Judge are set forth in Rule 72(b) of the Federal Rules of Civil Procedure and 28
6 U.S.C. § 636(b)(1). When the parties object to a Report and Recommendation, “[a] judge of
7 the [district] court shall make a de novo determination of those portions of the [Report and
8 Recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1); *see Thomas v. Arn*,
9 474 U.S. 140, 149-50 (1985). When no objections are filed, the district court need not review
10 the Report and Recommendation de novo. *Wang v. Masaitis*, 416 F.3d 992, 1000 n. 13 (9th
11 Cir. 2005); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121-22 (9th Cir. 2003) (en banc).
12 A district court may “accept, reject, or modify, in whole or in part, the findings or
13 recommendations made by the magistrate judge.” Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1).

14 **Ruling of the Court**

15 Neither party filed objections to the Report and Recommendation. The Court has
16 reviewed all aspects of the Report and Recommendation of the Magistrate Judge filed on July
17 9, 2009, and adopts all portions of the Report and Recommendation. The Report and
18 Recommendation correctly concluded that dismissal of the Petition was proper on grounds that
19 *Younger* abstention applies to the first three claims for relief, and that the fourth claim is not
20 cognizable under federal habeas review.

21 IT IS HEREBY ORDERED that all portions of the Report and Recommendation (Doc.
22 # 8) are **ADOPTED**; and the Motion to Dismiss (Doc. # 7) is **GRANTED**. The Petition is
23 **DISMISSED without prejudice**.

24 DATED: July 30, 2009

25 
26 **WILLIAM Q. HAYES**
27 United States District Judge
28