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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ANGEL VILLALOBOS,

Petitioner,

v.

ROBERT HERNANDEZ, Warden,

Defendant.

Case No. 09-cv-363-L(MDD)

ORDER:

**(1) ADOPTING REPORT AND
RECOMMENDATION [DOC. 62],
AND**

**(2) DENYING PETITIONER'S
PETITION FOR WRIT OF HABEAS
CORPUS [DOC. 1]**

On February 23, 2009, Petitioner Angel Villalobos, a state prisoner, filed this Petition for Writ of Habeas Corpus under 42 U.S.C. § 2254. (Doc. 1) On July 19, 2012, United States Magistrate Judge Mitchell D. Dembin issued a Report and Recommendation (“Report”), recommending that the Court deny the Petition. (Doc. 62.) Judge Dembin further ordered that any objections were to be filed by August 10, 2012, and any replies filed by August 24, 2012.

(*Id.*) To date, no objections have been filed, and neither party requested additional time to do so.

A district court’s duties concerning a magistrate judge’s report and recommendation and a party’s objections thereto are set forth in Rule 72(b) of the Federal Rules of Civil Procedure and in 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 Wang v. Masaitis*, 416 F.3d 992,


1 1000 n.13 (9th Cir. 2005) (“[D]e novo review of a R & R is only required when an objection is
2 made”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding
3 that 28 U.S.C. § 636(b)(1)(c) “makes it clear that the district judge must review the magistrate
4 judge’s findings and recommendations de novo *if objection is made*, but not otherwise”).

5 In contrast, the duties of a district court in connection with a magistrate judge’s report and
6 recommendation are quite different when an objection has been filed. Specifically, the district
7 court “must make a *de novo* determination of those portions of the report . . . to which objection
8 is made,” and “may accept, reject, or modify, in whole or in part, the findings or
9 recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1)(c); *see also United States v.*
10 *Raddatz*, 447 U.S. 667, 676 (1980); *United States v. Remsing*, 874 F.2d 614, 617 (9th Cir. 1989).

11 In light of the fact that no objections to the Report have been filed, the Court approves
12 Judge Dembin’s recommendations, **ADOPTS** the Report in its entirety (Doc. 62), and **DENIES**
13 Petitioner’s Petition for Writ of Habeas Corpus (Doc. 1). Furthermore, because reasonable
14 jurists would not find the Court’s assessment of the issues above debatable or wrong, the Court
15 also **DENIES** a certificate of appealability. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

16 **IT IS SO ORDERED.**

17 DATED: August 23, 2012

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20 M. James Lorenz
21 United States District Court Judge
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