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

MICHAEL JAMES MURPHY, vs. MATTHEW L. CATE, Secretary,	Petitioner, Respondent.	CASE NO. 09cv1941-LAB (RBB) ORDER ADOPTING REPORT & RECOMMENDATION
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Petitioner Michael J. Murphy, a state prisoner proceeding *pro se*, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 on September 2, 2009. Murphy challenges his convictions on count 1, first degree robbery; count 2, assault with a semiautomatic firearm, a handgun; count 3, assault with a semiautomatic firearm, a rifle; count 4, residential burglary; count 5, false imprisonment by violence or menace; count 6, grand theft of personal property; count 7, intimidating a witness by malicious use of force or violence; and counts 9, 10, 11, and 12, tampering with electric, telephone and cable television lines.

The Court referred the petition to Magistrate Judge Ruben B. Brooks for a Report and Recommendation (“R&R”) pursuant to 28 U.S.C. § 636 and Civil Local Rule 72.1(d). The case was later transferred to Magistrate Judge William V. Gallo. After the petition was briefed on the merits, Judge Gallo issued an R&R recommending that the Court DENY it. The R&R ordered the parties to file any objections by September 21, 2010 and advised them

1 that failure to do so may waive the right to raise those objections on appeal. Neither party
2 filed objections, nor asked for additional time.

3 In considering an R&R, a district judge “may accept, reject, or modify the
4 recommended decision, receive further evidence, or recommit the matter to the magistrate
5 judge with instructions.” Fed. R. Civ. P. 72(b); *see also* 28 U.S.C. § 636(b)(1). “[T]he court
6 shall make a de novo determination of those portions of the report or specified proposed
7 findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). “[T]he
8 district judge must review the magistrate judge’s findings and recommendations *de novo if*
9 *objection is made*, but not otherwise.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121
10 (9th Cir.2003) (en banc).

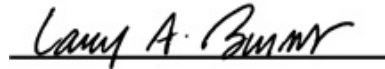
11 The Court has reviewed the R&R and finds it to be thorough and correct, particularly
12 considering that Murphy failed to file any objections. Therefore, the Court **ADOPTS** the
13 R&R. The petition is **DENIED** with prejudice.

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15 **IT IS SO ORDERED.**

16 DATED: December 9, 2010

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HONORABLE LARRY ALAN BURNS
United States District Judge

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