UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

GARY LEON PEAVY,

Petitioner,

vs.

JOHN MARSHALL,

Respondent.

CASE NO. 09-CV-2328 JLS (POR)

ORDER: (1) ADOPTING REPORT AND RECOMMENDATION AND (2) DENYING MOTION TO DISMISS

(Doc. No. 7)

Presently before the Court is Respondent John Marshall's motion to dismiss Petitioner Ricky B. Paugh's petition for a writ of habeas corpus and Magistrate Judge Louisa S. Porter's Report and Recommendation ("R&R") advising this Court to deny the motion. (Doc. Nos. 7 & 15.)

Rule 72(b) of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1) set forth the duties of a district court in connection with a magistrate judge's report and recommendation. "The district court must make a *de novo* determination of those portions of the report . . . to which objection is made," and "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. 636(b)(1)(c); *see also United States v. Remsing*, 874 F.2d 614, 617 (9th Cir. 1989); *United States v. Raddatz*, 447 U.S. 667, 676 (1980). However, in the absence of timely objection, the Court need "only satisfy itself that there is no clear error on the face of the record." Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (citing *Campbell v. U.S. Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)).

In this case, Respondent has failed to timely file objections to Magistrate Judge Porter's R&R. Having reviewed the R&R, the Court finds that it is thorough, well reasoned, and no contains no clear error. Therefore, the Court **ADOPTS** the R&R in full and **DENIES** the motion to dismiss.

IT IS SO ORDERED.

DATED: August 5, 2010

Janis L. Sammartino

Honorable Janis L. Sammartino
United States District Judge