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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

<p>JAWWAAD M. HASAN,</p> <p style="text-align: right;">Petitioner,</p> <p style="text-align: center;">vs.</p> <p>MATTHEW CATES,</p> <p style="text-align: right;">Respondent.</p>		<p>CASE No. 10-CV-1416 W (BGS)</p> <p>ORDER:</p> <p>(1) ADOPTING REPORT AND RECOMMENDATION [DOC. 19],</p> <p>(2) GRANTING RESPONDENT’S MOTION TO DISMISS [DOC. 13], AND</p> <p>(3) DENYING PETITIONER’S MOTION FOR APPOINTMENT OF COUNSEL AND EVIDENTIARY HEARING AS MOOT [DOC. 14]</p>
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CASE No. 10-CV-1416 W (BGS)

ORDER:

- (1) ADOPTING REPORT AND RECOMMENDATION [DOC. 19],**
- (2) GRANTING RESPONDENT’S MOTION TO DISMISS [DOC. 13], AND**
- (3) DENYING PETITIONER’S MOTION FOR APPOINTMENT OF COUNSEL AND EVIDENTIARY HEARING AS MOOT [DOC. 14]**

On July 6, 2010, Petitioner Jawwaad M. Hasan, a state prisoner proceeding *pro se* and *in forma pauperis*, filed this Petition for Writ of Habeas Corpus under 42 U.S.C. § 2254 (“Petition”), challenging his conviction and sentence in San Diego Superior Court. On October 22, Respondent Matthew Cates filed a motion to dismiss the Petition. (Doc. 13.) On November 17, 2010, Petitioner filed a motion for appointment of counsel and evidentiary hearing. (Doc. 14.) Thereafter, Petitioner filed his

1 opposition to Respondent’s motion, but Respondent did not file a reply. On May 31,
2 2011, United States Magistrate Judge Bernard G. Skomal issued a Report and
3 Recommendation (“Report”) recommending that this Court grant Respondent’s motion
4 to dismiss, and deny Petitioner’s motion for appointment of counsel and evidentiary
5 hearing as moot.

6 A district court’s duties concerning a magistrate judge’s report and
7 recommendation and a respondent’s objections thereto are set forth in Rule 72(b) of the
8 Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). When no objections are
9 filed, the district court is not required to review the magistrate judge’s report and
10 recommendation. See United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir.
11 2003) (holding that 28 U.S.C. § 636(b)(1)(C) “makes it clear that the district judge
12 must review the magistrate judge’s findings and recommendations de novo *if objection*
13 *is made*, but not otherwise” (emphasis in original)); Schmidt v. Johnstone, 263 F. Supp.
14 2d 1219, 1226 (D. Ariz. 2003) (concluding that where no objections were filed, the
15 district court had no obligation to review the magistrate judge’s report). This rule of law
16 is well established within the Ninth Circuit and this district. See Wang v. Masaitis, 416
17 F.3d 992, 1000 n.13 (9th Cir. 2005) (citing Renya-Tapia, 328 F.3d at 1121) (“Of course,
18 de novo review of a R & R is *only* required when an objection is made to the R & R.”
19 (emphasis added)); Nelson v. Giurbino, 395 F. Supp. 2d 946, 949 (S.D. Cal. 2005)
20 (Lorenz, J.) (adopting report in its entirety without review because neither party filed
21 objections to the report despite the opportunity to do so); see also Nichols v. Logan, 355
22 F. Supp. 2d 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

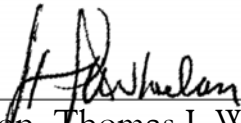
23 Here, the Report ordered that any objection to the Report is to be filed by June
24 21, 2011, and any reply is to be filed by July 12, 2011. To date, neither party has filed
25 an objection or made a request for additional time to do so. Therefore, the Court
26 accepts Judge Skomal’s recommendation, and **ADOPTS** the Report in its entirety (Doc.
27 19).

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1 For the reasons stated in the Report, which is incorporated herein by reference,
2 the Court **GRANTS** Respondent's motion to dismiss the Petition (Doc. 13), and
3 **DENIES AS MOOT** Petitioner's motion for appointment of counsel and evidentiary
4 hearing (Doc. 14).

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6 **IT IS SO ORDERED.**

7 DATED: June 22, 2011

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11 Hon. Thomas J. Whelan
12 United States District Judge
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