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

LACY BLACK,

Petitioner,

vs.

KELLY HARRINGTON, Warden,

Respondent.

Case No. 10cv1707 DMS (MDD)

ORDER DENYING PETITION

On August 12, 2010, Petitioner Lacy C. Black, a state prisoner proceeding *pro se*, filed a petition for writ of habeas corpus under 28 U.S.C. Section 2254 challenging his conviction and sentence for attempted murder. The petition was referred to United States Magistrate Judge Mitchell D. Dembin for a report and recommendation pursuant to 28 U.S.C. Section 636(b)(1)(B) and Civil Local Rule 72.1(d). On August 21, 2012, the Magistrate Judge issued a Report and Recommendation recommending to deny the Petition.

Petitioner's objections to the Report and Recommendation were due on September 12, 2012. The due date has been extended twice to accommodate Petitioner's requests. Most recently, the due date was extended to December 12, 2012. To date, Petitioner has not filed objections to the Report and Recommendation.

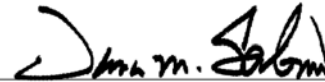
A district judge "may accept, reject, or modify the recommended disposition" on a dispositive matter prepared by a magistrate judge proceeding without the consent of the parties for all purposes. Fed. R. Civ. P. 72(b); *see* 28 U.S.C. § 636(b)(1). "The court shall make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. §

1 636(b)(1). When no objections are filed, the *de novo* review is waived. Section 636(b)(1) does not
2 require review by the district court under a lesser standard. *Thomas v. Arn*, 474 U.S. 140, 149-50
3 (1985). The "statute makes it clear that the district judge must review the magistrate judge's findings
4 and recommendations *de novo if objection is made, but not otherwise.*" *United States v. Reyna-Tapia*,
5 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) (emphasis in original); *see Schmidt v. Johnstone*, 263
6 F. Supp. 2d 1219, 1225-26 & n.5 (D. Ariz. 2003) (applying *Reyna-Tapia* to habeas review).

7 In the absence of objections, the court **ADOPTS** the Report and Recommendation. The
8 petition is **DENIED** for the reasons stated in the Report and Recommendation. For the same reasons,
9 certificate of appealability is also **DENIED**.

10 **IT IS SO ORDERED.**

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12 DATED: January 3, 2013



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14 HON. DANA M. SABRAW
15 United States District Judge
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