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

JORGE ROJAS-LOPEZ,

Petitioner,

vs.

MIKE MCDONALD, Warden,

Respondent.

CASE NO. 11-CV-2304 - IEG (KSC)

ORDER:

**(1) ADOPTING IN FULL REPORT
AND RECOMMENDATION;**

[Doc. No. 13]

**(2) DENYING PETITION FOR
WRIT OF HABEAS CORPUS; AND**

[Doc. No. 5]

**(3) DENYING CERTIFICATE OF
APPEALABILITY**

Before the Court is Petitioner Jorge Rojas-Lopez's First Amended Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 ("the Petition"). [Doc. No. 5.] Petitioner was convicted of kidnapping for ransom in San Diego County Superior Court and sentenced to life in prison without the possibility of parole. [*Id.* at 6-7.] He claims: (1) that there was insufficient evidence at trial to support the jury's finding of bodily harm; and (2) that the superior court erred in instructing the jury that a finding of bodily harm did not depend on a finding of great bodily injury. [*Id.*]

The Court referred the matter to Magistrate Judge Karen. S. Crawford, who issued a Report and Recommendation ("R & R") recommending that the Petition be denied. [Doc. No. 13.] The R & R concludes that the Petition should be denied because the jury's finding of bodily harm was

1 supported by sufficient evidence and the challenged jury instruction was not erroneous. [*See id.* at
2 8, 10.] The time for filing objections to the R & R expired on September 12, 2012. [*See id.* at 12.]
3 Petitioner has not filed any objections.

4 DISCUSSION

5 The Court reviews *de novo* those portions of the R & R to which objections are made. 28
6 U.S.C. § 636(b)(1). The Court may “accept, reject, or modify, in whole or in part, the findings or
7 recommendations made by the magistrate judge.” *Id.* However, “[t]he statute makes it clear that
8 the 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 (9th
10 Cir. 2003) (en banc) (emphasis in original). “Neither the Constitution nor the statute requires a
11 district judge to review, *de novo*, findings and recommendations that the parties themselves accept
12 as correct.” *Id.*

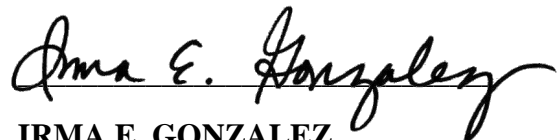
13 In this case, the time for filing objections to the R & R passed months ago and Petitioner
14 has not filed any objections. Accordingly, the Court may adopt the R & R on that basis alone. *See*
15 *id.* Having reviewed the Petition, Respondent’s Answer, [Doc. No. 10], and the R & R, the Court
16 hereby approves and **ADOPTS IN FULL** the R & R. *See* 28 U.S.C. § 636(b)(1).

17 CONCLUSION

18 Having reviewed the R & R and there being no objections, the Court **ADOPTS IN FULL**
19 the R & R and **DENIES** the Petition. The Court also **DENIES** a certificate of appealability
20 because Petitioner has not “made a substantial showing of the denial of a constitutional right.” *See*
21 28 U.S.C. § 2253(c)(2).

22 **IT IS SO ORDERED.**

23 **DATED:** March 2, 2013



IRMA E. GONZALEZ
United States District Judge