

FILED

13 SEP 23 AM 11:25

CLERK, U.S. DISTRICT COURT,
SOUTHERN DISTRICT OF CALIFORNIA

BY *DWS* DEPUTY

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 SADIQ SAIBU,

12 Petitioner,

13 vs.

14
15 L.S. McEWEN, Warden,

16 Respondent.
17

CASE NO. 12-CV-1564 BEN (MDD)

ORDER:

**(1) ADOPTING REPORT AND
RECOMMENDATION**

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

**(3) DENYING CERTIFICATE OF
APPEALABILITY**

[Docket No. 15]

18
19
20 Petitioner Sadiq Saibu, a state prisoner proceeding *pro se*, filed the instant
21 Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. (Docket No. 1.)
22 Respondent filed a Response on October 25, 2012. (Docket No. 11.) Petitioner filed
23 a traverse on December 6, 2012. (Docket No. 14.)

24 Magistrate Judge Mitchell D. Dembin issued a thoughtful and thorough Report
25 and Recommendation recommending that the Petition be denied. (Docket No. 15.)
26 Any objections to the Report and Recommendation were due September 18, 2013. (*Id.*)
27 Neither party filed any objections. For the reasons that follow, the Report and
28 Recommendation is **ADOPTED**.

A district judge “may accept, reject, or modify the recommended disposition” of

1 a magistrate judge on a dispositive matter. FED. R. CIV. P. 72(b)(3); *see also* 28 U.S.C.
2 § 636(b)(1). “[T]he district judge must determine de novo any part of the [report and
3 recommendation] that has been properly objected to.” FED. R. CIV. P. 72(b)(3).
4 However, “[t]he statute makes it clear that the district judge must review the magistrate
5 judge’s findings and recommendations de novo *if objection is made*, but not
6 otherwise.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en
7 banc) (emphasis in original); *see also Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th
8 Cir. 2005). “Neither the Constitution nor the statute requires a district judge to review,
9 de novo, findings and recommendations that the parties themselves accept as correct.”
10 *Reyna-Tapia*, 328 F.3d at 1121.

11 After a de novo review, and in the absence of any objections, the Court fully
12 **ADOPTS** Judge Dembin’s Report and Recommendation. The habeas petition is
13 **DENIED**. The Court **DENIES** a certificate of appealability because the issues are not
14 debatable among jurists of reason and there are no questions adequate to deserve
15 encouragement. *See Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). The Clerk of
16 Court shall enter judgment denying the Petition.

17 **IT IS SO ORDERED.**

18
19 DATED: September 24, 2013


HON. ROGER T. BENITEZ
United States District Judge