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

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

JOEL RICHARD HERNANDEZ,  
  
Petitioner,  
  
vs.  
  
DANIEL PARAMO, et al.,  
  
Respondents.

CASE NO. 13-CV-1217 BEN (BLM)

**ORDER:**

**(1) ADOPTING REPORT AND  
RECOMMENDATION**

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

**(3) DENYING CERTIFICATE OF  
APPEALABILITY**

[Docket No. 12]

Petitioner Joel Richard Hernandez, a state prisoner proceeding *pro se*, filed the instant Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. (Docket No. 1). Respondent filed a Response on September 4, 2013. (Docket No. 6). Petitioner filed a traverse on October 29, 2013. (Docket No. 11).

On February 12, 2014, Magistrate Judge Barbara Lynn Major issued a thoughtful and thorough Report and Recommendation recommending that the Petition be denied. (Docket No. 12). Any objections to the Report and Recommendation were due March 7, 2014. (*Id.*) Neither party filed any objections. For the reasons that follow, the Report and 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 Major’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: March 21, 2014

  
HON. ROGER T. BENITEZ  
United States District Judge