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# UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

**ORDER** 

CASE NO. 14cv2725 WQH (RBB)

RONNIE LEROY BONAPARTE,

Petitioner,

Respondent.

The matters before the Court is the review of the Report and Recommendation (ECF No. 11) issued by United States Magistrate Judge Ruben B. Brooks.

# I. Background

HAYES, Judge:

J. SOTO,

On November 17, 2014, Petitioner Ronnie Leroy Bonaparte, a state prisoner proceeding pro se and in forma pauperis, filed a Petition for Writ of Habeas Corpus (ECF No. 1), along with a Notice of Lodgment (ECF No. 8). On January 20, 2015, Respondent filed a response. (ECF No. 7). On February 6, 2015, Petitioner filed a Traverse. (ECF No. 9). On December 18, 2015, United State Magistrate Judge Ruben B. Brooks issued the Report and Recommendation, recommending that the district court deny Petitioner's Writ of Habeas Corpus. (ECF No. 11).

On January 11, 2016, Petitioner filed a motion requesting an extension of time to file a response to the Report and Recommendation. (ECF No. 12). On January 19, 2016, the Court granted Petitioner's request for extension. (ECF No. 13). The docket reflects that no objections have been filed to the Report and Recommendation.

#### **II. Discussion**

The duties of the district court in connection with a report and recommendation of a magistrate judge are set forth in Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b). The district judge must "make a de novo determination of those portions of the report . . . to which objection is made," and "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b). The district court need not review de novo those portions of a Report and Recommendation to which neither party objects. *See Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) ("Neither the Constitution nor the [Federal Magistrates Act] requires a district judge to review, de novo, findings and recommendations that the parties themselves accept as correct.").

The Court has reviewed the Report and Recommendation, the record, and the submissions of the parties. The Court finds that the Magistrate Judge correctly recommended that the petition for writ of habeas corpus be dismissed with prejudice. The Report and Recommendation is adopted in its entirety.

## III. Certificate of Appealability

A certificate of appealability must be obtained by a petitioner in order to pursue an appeal from a final order in a section 2254 habeas corpus proceeding. *See* 28 U.S.C. § 2253(c)(1)(A); Fed R. App. P. 22(b). Pursuant to Rule 11 of the Federal Rules Governing Section 2254 Cases, "[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant."

A certificate of appealability should be issued only where the petition presents "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). It must appear that reasonable jurists could find the district court's assessment of the petitioner's constitutional claims debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The Court finds that Petitioner has raised colorable, nonfrivolous arguments. The Court grants a certificate of appealability.

### **IV.** Conclusion

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 11) is adopted in its entirety. The Petition for Writ of Habeas Corpus (ECF No. 1) is denied. A certificate of appealability is granted. The Clerk of the Court shall enter judgment for Respondent and against Petitioner and close the case.

DATED: June 14, 2016

WILLIAM Q. HAYES
United States District Judge