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

12
13 GEORGE V. AUSTIN,

14 Plaintiff,

15 v.

16 R. GROUNDS,

17 Defendant.
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Case No. 15-cv-309-BAS(BLM)

ORDER:

(1) **APPROVING AND
ADOPTING REPORT AND
RECOMMENDATION IN ITS
ENTIRETY; AND**

(2) **DIRECTING JUDGMENT BE
ENTERED DENYING
PETITIONER'S HABEAS
PETITION**

[ECF No. 15]

22 On February 12, 2015, Petitioner George V. Austin, a state prisoner proceeding
23 *pro se* and *in forma pauperis*, filed this petition for writ of habeas corpus under 28
24 U.S.C. § 2254 challenging his state-court convictions are various grounds.
25 Thereafter, Respondent R. Grounds, in his capacity as Warden, answered the petition.
26 On January 29, 2016, United States Magistrate Judge Barbara Lynn Major issued a
27 Report and Recommendation ("R&R") recommending that this Court deny
28 Petitioner's habeas petition and enter judgment accordingly. Judge Major ordered

1 any objections to be filed no later than February 26, 2016, and any replies no later
2 than March 25, 2016. To date, no objections have been filed, and neither party has
3 requested additional time to do so.

4 The Court reviews *de novo* those portions of the R&R to which objections are
5 made. 28 U.S.C. § 636(b)(1). The Court may “accept, reject, or modify, in whole or
6 in part, the findings or recommendations made by the magistrate judge.” *Id.* But
7 “[t]he statute makes it clear that the district judge must review the magistrate judge’s
8 findings and recommendations *de novo if objection is made*, but not otherwise.”
9 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc)
10 (emphasis in original); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226
11 (D. Ariz. 2003) (concluding that where no objections were filed, the district court had
12 no obligation to review the magistrate judge’s report). “Neither the Constitution nor
13 the statute requires a district judge to review, *de novo*, findings and recommendations
14 that the parties themselves accept as correct.” *Id.* “When no objections are filed, the
15 *de novo* review is waived.” *Marshall v. Astrue*, No. 08cv1735, 2010 WL 841252, at
16 *1 (S.D. Cal. Mar. 10, 2010) (Lorenz, J.) (adopting report in its entirety without
17 review because neither party filed objections to the report despite the opportunity to
18 do so).


19 In this case, the deadline for filing objections was on February 26, 2016.
20 However, no objections have been filed, and neither party has requested additional
21 time to do so. Consequently, the Court may adopt the R&R on that basis alone. *See*
22 *Reyna-Tapia*, 328 F.3d at 1121. Having nonetheless conducted a *de novo* review of
23 the habeas petition, Respondent’s answer, and the R&R, the Court concludes that
24 Judge Major’s reasoning is sound. Accordingly, the Court hereby approves and
25 **ADOPTS** the R&R in its entirety (ECF No. 15), **DENIES** Petitioner’s writ of habeas
26 corpus (ECF No. 1), and **ORDERS** the Clerk of the Court to enter judgment
27 accordingly. *See* 28 U.S.C. § 636(b)(1).

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1 Additionally, a certificate of appealability may issue only if the applicant
2 makes a substantial showing of the denial of a constitutional right. 28 U.S.C. §
3 2253(c)(2). Petitioner has made no such showing. Because reasonable jurists would
4 not find the Court's assessment of the claims debatable or wrong, the Court
5 **DECLINES** to issue a certificate of appealability. *See Slack v. McDaniel*, 529 U.S.
6 473, 484 (2000).

7 **IT IS SO ORDERED.**

8
9 **DATED: March 23, 2016**


Hon. Cynthia Bashant
United States District Judge