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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 ARMANDO MUNOZ,

12 Plaintiff,

13 v.

14 RAYMOND MADDEN,

15 Defendant.

Case No.: 16cv2447-CAB-NLS

**ORDER ADOPTING REPORT AND
RECOMMENDATION, DENYING
PETITION, AND DENYING
CERTIFICATE OF
APPEALABILITY**

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17 On September 28, 2016, Petitioner Armando Munoz (“Petitioner”), a state prisoner
18 proceeding pro se and in forma pauperis, filed a Petition for Writ of Habeas Corpus
19 pursuant to 28 U.S.C. § 2254, [Doc. No. 1.] On June 1, 2017, Respondent filed an answer
20 to the petition and lodged the state court record. [Doc. Nos. 16, 17.] On July 28, 2017,
21 Petitioner filed a traverse. [Doc. No. 20.]

22 On August 4, 2017, Magistrate Judge Nita L. Stormes issued a Report and
23 Recommendation (“Report”), recommending that the Court deny the Petition. [Doc. No.
24 21.] The Report also ordered that any objections were to be filed by August 25, 2017.
25 [Report at 6.] To date, no objection has been filed, nor has there been a request for
26 additional time in which to file an objection.

27 A district court’s duties concerning a magistrate judge’s report and
28 recommendation and a respondent’s objections thereto are set forth in Rule 72(b) of the

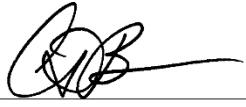
1 Federal rules of Civil Procedure and 28 U.S.C. § 636(b)(1). When no objections are
2 filed, the district court is not required to review the magistrate judge’s report and
3 recommendation. The Court reviews de novo those portions of the Report and
4 Recommendation to which objections are made. 28 U.S.C. § 636(b)(1). The Court may
5 “accept, reject, or modify, in whole or in part, the findings or recommendations made by
6 the magistrate judge.” *Id.* However, “[t]he statute makes it clear that the district judge
7 must review the magistrate judge's findings and recommendations de novo if objection is
8 made, but not otherwise.” *United States v. Reyna–Tapia*, 328 F.3d 1114, 1121 (9th
9 Cir.2003) (en banc) (emphasis in original). “Neither the Constitution nor the statute
10 requires a district judge to review, de novo, findings and recommendations that the
11 parties themselves accept as correct.” *Id.*

12 Here, neither party has timely filed objections to the Report. Having reviewed it,
13 the Court finds that it is thorough, well-reasoned, and contains no clear error.
14 Accordingly, the Court **HEREBY ADOPTS** Magistrate Judge Stormes’ Report and
15 Recommendation [Doc. No. 21] in its entirety. For the reasons stated in the Report,
16 which is incorporated herein by reference, the Court **DENIES** the Petition. [Doc. No. 1.]

17 Moreover, because the Court does not believe that reasonable jurists would find the
18 Court’s assessment of the constitutional claims debatable or wrong it **DECLINES** to
19 issue a Certificate of Appealability. See *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

20 **IT IS SO ORDERED.**

21 Dated: August 29, 2017

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24 Hon. Cathy Ann Bencivengo
25 United States District Judge
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