

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10

11 SERGIO RAMIREZ GUZMAN,  
12 Petitioner,  
13 v.  
14 RAYMOND MADDEN, Warden, et al.,  
15 Respondent.

Case No.: 17cv982-CAB-WVG

**ORDER ADOPTING REPORT AND  
RECOMMENDATION [Doc. No. 12]  
AND DENYING PETITION**

16  
17 On May 11, 2017, Petitioner Sergio Ramirez Guzman (“Petitioner”), a state  
18 prisoner proceeding pro se and in forma pauperis, filed a Petition for Writ of Habeas  
19 Corpus pursuant to 28 U.S.C. § 2254, [Doc. No. 1.] On September 27, 2018, Respondent  
20 filed an answer to the petition and lodged the state court record. [Doc. Nos. 7, 8.] On  
21 November 2, 2017, Petitioner filed a traverse. [Doc. No. 10.]

22 On February 21, 2018, Magistrate Judge William V. Gallo issued a Report and  
23 Recommendation (“Report”), recommending that the Court deny the Petition. [Doc. No.  
24 12.] The Report also ordered that any objections were to be filed by March 30, 2018.  
25 [Report at 20.] 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

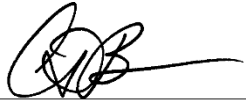
1 Federal rules of Civil Procedure and 28 U.S.C. § 636(b)(1). When no objections are  
2 filed, the district court is not required to review the magistrate judge’s report and  
3 recommendation. The Court reviews de novo those portions of the Report and  
4 Recommendation to which objections are made. 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 Gallo’s Report and  
15 Recommendation [Doc. No. 12] 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: April 6, 2018

22   
23 \_\_\_\_\_  
24 Hon. Cathy Ann Bencivengo  
25 United States District Judge  
26  
27  
28