

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PHYLL MENDACINO,

Petitioner,

v.

MARK NOOTH,

Respondent.

Civ. No. 08-485-CL

OPINION AND ORDER

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Petitioner has filed objections [#33], and I have reviewed the file of this case *de novo*. 28 U.S.C. § 636(b)(1)(c); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). I conclude the R and R is correct.

////

////

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#31) is adopted. The petition (#1) is denied and this action is dismissed. Because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability is DENIED. See 28 U.S.C. § 2253(2).

IT IS SO ORDERED.

DATED this 12 day of July, 2010.

A handwritten signature in cursive script that reads "Owen M. Panner". The signature is written in black ink and is positioned above the printed name and title.

OWEN M. PANNER
U.S. DISTRICT JUDGE