

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MARK D. MCQUEEN,

Petitioner,

Civ. No. 10-893-CL

v.

OPINION AND ORDER

KLAMATH COUNTY,

Respondent.

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). Although no objections have been filed, this court reviews the legal principles *de novo*. See Lorin Corp. v Goto & Co., Ltd., 700 F.2d 1202, 1206 (9th Cir. 1983). I conclude that the R and R is correct.

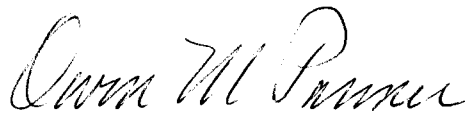
CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#10) is

adopted. The amended petition (#8) is denied and this action is dismissed without prejudice to re-file upon exhaustion of the claims. 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 27 day of December, 2010.

A handwritten signature in cursive script, reading "Owen M. Panner", is written above a horizontal line.

OWEN M. PANNER
U.S. DISTRICT JUDGE