

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

FRED LEO TOQUERO,

Plaintiff,

vs.

B. AMBSBERRY, *Acting Superintendent*
EOCI,

Defendant.

Case No. 2:14-cv-00212-TC
ORDER

AIKEN, District Judge:

Magistrate Judge Coffin filed his Findings and Recommendation (“F&R”) (doc. 76) on 9/25/2017. The matter is now before me. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72. No objections have been timely filed. Although this relieves me of my obligation to perform a *de novo* review, I retain the obligation to “make an informed, final decision.” *Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983), *overruled on other grounds*, *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121–22 (9th Cir. 2003) (en banc). The Magistrates Act does not specify a standard of review in cases where no objections are filed. *Ray v. Astrue*, 2012 WL 1598239, *1 (D. Or. May 7, 2012). Following the recommendation of the Rules Advisory

Committee, I review the F&R for “clear error on the face of the record[.]” Fed. R. Civ. P. 72 advisory committee’s note (1983) (citing *Campbell v. United States District Court*, 501 F.2d 196, 206 (9th Cir. 1974)); *see also United States v. Vonn*, 535 U.S. 55, 64 n.6 (2002) (stating that, “[i]n the absence of a clear legislative mandate, the Advisory Committee Notes provide a reliable source of insight into the meaning of” a federal rule). Having reviewed the file of this case, I find no clear error.

Accordingly I adopt Judge Coffin’s F&R (doc. 76) in its entirety. The Petitions for Writ of Habeas Corpus (Doc. 2, 27, 50) are DENIED, and this case is DISMISSED with prejudice. A Certificate of Appealability is denied on the basis that petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

Dated this 8th day of November 2017.



Ann Aiken
United States District Judge