IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PENDLETON DIVISION

GREGORY SCOTT SPRADLIN,

Petitioner,

v.

MARK NOOTH,

Respondent.

No. 2:15-cv-00118-SU

OPINION AND ORDER

MOSMAN, J.,

On March 6, 2017, Magistrate Judge Patricia Sullivan issued her Findings and Recommendation ("F&R") [64], recommending that Mr. Spradlin's Petition for Writ of Habeas Corpus [2] should be DENIED. Judge Sullivan also recommended that I decline to issue a Certificate of Appealability because Mr. Spradlin has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). Mr. Spradlin objected [66] to the F&R, and Mr. Nooth responded [67].

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or

recommendations as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny with which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Sullivan's recommendation and ADOPT the F&R [64] as my own opinion. Mr. Spradlin's Petition for Writ of Habeas Corpus [2] is DENIED. In addition, I decline to issue a Certificate of Appealability because Mr. Spradlin has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 8th day of June, 2017.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
Chief United States District Judge