

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

DOMINICKE SANDERS,

No. 2:16-cv-01751-YY

Petitioner,

OPINION AND ORDER

v.

STEVE FRANKE,

Respondent.

MOSMAN, J.,

On July 5, 2017, Magistrate Judge Youlee Yim You issued her Findings and Recommendation (“F&R”) [29], recommending that Petitioner’s Petition for Writ of Habeas Corpus [2] should be DENIED and the case should be DISMISSED. She also recommends that I decline to issue a Certificate of Appealability because Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). Neither party objected to the F&R.

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 You's recommendation and ADOPT the F&R [29] as my own opinion. Petitioner's Petition for Writ of Habeas Corpus [2] is DENIED, and this case is DISMISSED with prejudice. Additionally, I decline to issue a Certificate of Appealability because Petitioner 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 1st day of August, 2017.

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