

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

FILED 09 JUN 8 9 13 USDC-ORP

EUGENE MORALES,
Petitioner,

No. CV 05-1561-PK

v.

OPINION AND ORDER

BRIAN BELLEQUE,
Respondent.

MOSMAN, J.,

On March 31, 2009, Magistrate Judge Papak issued Findings and Recommendation ("F&R") (#73) in the above-captioned case recommending that petitioner's Amended Petition for Writ of Habeas Corpus (2254) (#71) be DENIED and judgment be entered dismissing this case with prejudice. Petitioner filed objections to the F&R (#79).

DISCUSSION

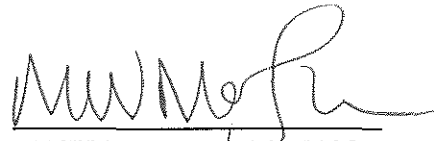
The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to

review, under a *de novo* or 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 under 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 of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Papak's recommendation, and I ADOPT the F&R (#73) as my own opinion.

IT IS SO ORDERED.

DATED this 6th day of June, 2009.


MICHAEL W. MOSMAN
United States District Court