

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

FILED 10 JUN 23 15:51 USDIC:CRP

JOSHUA ROBERTS,

Petitioner,

No. CV 07-539-AC

AMENDED OPINION & ORDER

v.

GUY HALL,

Respondent.

MOSMAN, J.,

On April 16, 2010, Magistrate Judge Acosta issued Amended Findings and Recommendation ("F&R") (#40) in the above-captioned case recommending that I DENY Mr. Roberts's Amended Petition for Writ of Habeas Corpus (#35), DISMISS this case, and DENY a Certificate of Appealability. Mr. Roberts filed objections (#42) to the F&R.

DISCUSSION

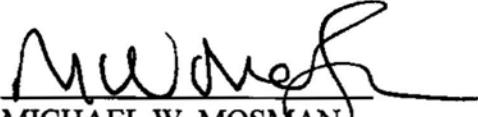
The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination 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 Acosta's recommendations, and I ADOPT the F&R (#40) as my own opinion. I therefore DENY Mr. Roberts's Amended Petition for Writ of Habeas Corpus (#35), DISMISS this case, and DENY a Certificate of Appealability.

IT IS SO ORDERED.

DATED this 21 day of June, 2010.


MICHAEL W. MOSMAN
United States District Court