

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

**SHAWN M. NEWCOMB,**

Petitioner,

v.

**BRIAN BELLEQUE,**

Respondent.

No. 3:09-cv-00936-HU

OPINION AND ORDER

**MOSMAN, J.,**

On January 4, 2012, Magistrate Judge Hubel issued his Findings and Recommendation (“F&R”) [53] in the above-captioned case recommending that I deny petitioner’s Amended Petition for Writ of Habeas Corpus [33]. Petitioner filed Objections [58].

**BACKGROUND**

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).

### **DISCUSSION**

Petitioner's nine objections to Magistrate Judge Hubel's findings are supported by arguments advanced in his Memorandum in Support of Amended Petition for Writ of Habeas Corpus [31]. I have reviewed the briefing in this matter and the Exhibits to Answer [20] and find petitioner's arguments unpersuasive.

### **CONCLUSION**

Upon review, I agree with Judge Hubel's recommendation and I ADOPT the F&R [53] as my own opinion. Petitioner's Amended Petition for Writ of Habeas Corpus [33] is DENIED, and this proceeding is DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.

DATED this 15th day of May, 2012.

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