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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

JEFFREY ALBERT BALOGH,

No. 3:10-cv-01283-AC

Petitioner,

OPINION AND ORDER

v.

GARY KILMER, Superintendent, Oregon State Correctional Institution,

Respondent.

MOSMAN, J.,

On November 29, 2012, Magistrate Judge Acosta issued his Findings and Recommendation ("F&R") [49] in the above-captioned case, recommending that the Petition for Writ of Habeas Corpus [2] be denied and that a judgment be entered dismissing this case. Judge Acosta also recommended that I decline to issue a Certificate of Appealability on the basis that petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). Petitioner objected [54], and respondent responded [55] to petitioner's objections.

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,

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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

recommendation 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 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 part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Acosta's recommendation, and I ADOPT the F&R [49]

as my own opinion.

IT IS SO ORDERED.

DATED this 3rd day of April, 2013.

/s/ Michael W. Mosman

MICHAEL W. MOSMAN

United States District Judge