

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

MATTHEW SEAN SANER,

Petitioner,

v.

No. 3:17-cv-00991-AC

JERI TAYLOR, Superintendent, Eastern
Oregon Correctional Institution,

OPINION AND ORDER

Respondent.

MOSMAN, J.,

On November 20, 2020, Magistrate Judge John V. Acosta issued his Findings and Recommendation (F. & R.) [ECF 33]. Judge Acosta recommended that I deny the Petition for Writ of Habeas Corpus [ECF 1] and decline to issue a certificate of appealability. Petitioner Matthew Sean Saner filed objections. Upon review, I agree with Judge Acosta and DISMISS this case with prejudice.

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 recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court

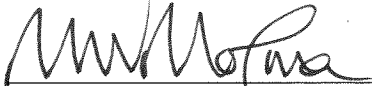
is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F. & R. to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 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).

CONCLUSION

Upon review, I agree with Judge Acosta's findings and recommendation, and I ADOPT the F. & R. [ECF 33] as my own opinion. I DENY Mr. Saner's Petition for Writ of Habeas Corpus [ECF 1] and 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). The case is DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 1st day of February, 2021.


MICHAEL W. MOSMAN
United States District Judge