IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

MEGAN ELIZABETH KYTE,

Petitioner,

v.

ROB PERSSON,

Respondent.

No. 3:18-cv-00649-SB

OPINION AND ORDER

MOSMAN, J.,

On July 27, 2020, Magistrate Judge Stacie F. Beckerman issued her Findings and Recommendation (F&R) [ECF 52]. Judge Beckerman recommended that I DENY Petitioner's Amended Petition for Writ of Habeas Corpus [ECF 34] and decline to issue a Certificate of Appealability. Petitioner Megan Elizabeth Kyte filed objections [ECF 61] and Respondent Rob Persson filed a response [ECF 62]. Upon review, I agree with Judge Beckerman 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 Beckerman's recommendation and I ADOPT the F&R [ECF 52] as my own opinion. Ms. Kyte's Amended Petition for Writ of Habeas Corpus [ECF 34] is DENIED and I decline to issue a Certificate of Appealability. The case is DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 29 day of October, 2020.

MICHAEL W. MOSMAN
United States District Judge