

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

TIMOTHY THOMPSON,

Petitioner,

v.

JEFF PREMO, State of Oregon,

Respondent.

Case No. 6:16-cv-00413-AC

OPINION AND ORDER

MOSMAN, J.,

On April 27, 2020, Magistrate Judge John V. Acosta issued his Findings and Recommendation (“F&R”) [ECF 84], recommending that this court deny Petitioner’s Second Amendment Petition for Writ of Habeas Corpus [ECF 77] and dismiss this case with prejudice. Petitioner objected. [ECF 92]. Respondent filed a response. [ECF 93]. Upon review, I agree with Judge Acosta, and I DENY the petition.

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 recommendation and I ADOPT the F&R [84]. I DENY Petitioner's Second Petition for Writ of Habeas Corpus [77] and DISMISS this case with prejudice. Because Petitioner has not made a substantial showing of the denial of a constitutional right, I DECLINE to issue a certificate of appealability. 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 7 day of August, 2020.

Michael W. Mosman

MICHAEL W. MOSMAN
United States District Judge