

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DENNIS L. GORDON,

Petitioner,

v.

BRANDON KELLY,

Superintendent,

Respondent.

No. 6:17-cv-00320-SB

OPINION & ORDER

MOSMAN, J.,

On May 28, 2019, Magistrate Judge Stacie F. Beckerman issued her Findings and Recommendation (“F&R”) [40], recommending that Petitioner Dennis L. Gordon’s Petition for Writ of Habeas Corpus [1] be denied, the case be dismissed with prejudice, and that I should decline to issue a certificate of appealability. Mr. Gordon filed objections to the F&R [45] to which Respondent responded [46].

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).

Upon review, I agree with Judge Beckerman's recommendation and I ADOPT the F&R [40] as my own opinion. Mr. Gordon's Petition for Writ of Habeas Corpus [1] is DENIED and this case is DISMISSED with prejudice. I also decline to issue a certificate of appealability.

IT IS SO ORDERED.

DATED this 3rd day of October, 2019.

Michael W. Mosman
MICHAEL W. MOSMAN
Chief United States District Judge