

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

WAYNE HOUFF,

Petitioner,

vs.

GARRETT LANEY, Superintendent,
Oregon State Correctional Institution,

Respondent.

Case No. 6:17-cv-01767-CL
OPINION AND ORDER

AIKEN, District Judge:

United States Magistrate Judge Mark D. Clarke issued a Findings and Recommendation ("F&R") (doc. 33) on May 14, 2019, recommending that Petitioner Wayne Houff's Petition for Writ of Habeas Corpus (doc. 1) be denied. Judge Clarke further recommended petitioner be denied a Certificate of Appealability because petitioner has not made a substantial showing of the denial of a constitutional right under 28 U.S.C. § 2253(c)(2). Petitioner timely filed objections (doc. 37) to the F&R

to which respondent responded (doc. 38). The matter is now before me pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When a party objects to any portion of a Magistrate Judge's F&R, the district court must make a *de novo* determination of that portion of the F&R. 28 U.S.C. § 636(b)(1); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

I have carefully considered petitioner's objections and conclude there is no basis to modify the F&R. I have also reviewed the pertinent portions of the record *de novo* and find no errors in the F&R.

CONCLUSION

The Court ADOPTS Magistrate Judge Clarke's F&R (doc. 33) and therefore petitioner's Petition for Writ of Habeas Corpus (doc. 1) is DENIED. A Certificate of Appealability is denied because petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

Dated this 24 day of July 2019.



Ann Aiken
United States District Judge