

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

**JON QUINTIN JOHNSTON**,  
an individual,

Petitioner,

v.

**GARRETT LANEY**,  
Superintendent,  
Oregon State Correctional Institution,

Respondent.

Case No. 6:18-cv-00495-YY

OPINION AND ORDER

**MOSMAN, J.**,

On September 11, 2019, Magistrate Judge Youlee Yim You issued her Findings and Recommendation (“F&R”) [33], recommending that Petitioner’s writ of habeas corpus be denied. Petitioner objected [35], and Respondent filed a response to the objection [40].<sup>1</sup>

**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

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<sup>1</sup> Petitioner also filed supplemental briefing in support of his objection [41], and Respondent filed a supplemental response [42].


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 You's recommendation and I ADOPT the F&R [33] in full. I DENY Petitioner's writ of habeas corpus and DISMISS the case with prejudice. Further, because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability is DENIED. 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 19 day of October, 2019.

  
MICHAEL W. MOSMAN  
Chief United States District Judge