

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

GEORGE WILLIAM NULPH,

Petitioner,

v.

GARRETT LANEY, Superintendent
Oregon State Correctional Institution,

Respondent.

Case No. 6:20-cv-00945-AC

ORDER

Anthony D. Bornstein, Federal Public Defender's Office, 101 SW Main Street, Suite 1700, Portland, OR 97204. Attorney for Petitioner.

Nick M. Kallstrom, Oregon Department of Justice, 1162 Court Street, NE, Salem, OR 97301. Attorney for Respondent.

IMMERGUT, District Judge.

On October 12, 2021, Magistrate Judge John V. Acosta issued his Findings and Recommendation ("F&R"). ECF 28. Judge Acosta recommended that this Court deny Petitioner George William Nulph's Petition for Writ of Habeas Corpus, ECF 2, and enter a judgment of dismissal. Judge Acosta also recommended that a certificate of appealability be denied. ECF 28.

On November 4, 2021, Petitioner filed Objections to the F&R. ECF 33. On December 18, 2021, Respondent filed his Response in opposition to Petitioner's Objections. ECF 34.

STANDARDS

Under the Federal Magistrates Act (“Act”), as amended, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge’s F&R, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act “does not preclude further review by the district judge, *sua sponte*” whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

CONCLUSION

This Court has reviewed de novo the portions of Judge Acosta’s F&R, ECF 28, to which Petitioner objected. The F&R is adopted in full. Petitioner’s Petition for Writ of Habeas Corpus, ECF 2, 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 15th day of February, 2022.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge