Appendix B

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

FIVEA SHARIPOFF,

Petitioner

v.

ROB PERSSON, Superintendent, Coffee Creek Correctional Institution,

Respondent.

Case No. 3:16-cv-01711-AC

OPINION AND ORDER

MOSMAN, J.,

On April 27, 2020, Magistrate Judge John V. Acosta issued his Findings and Recommendation ("F&R") [ECF 55], recommending that this court deny Ms. Sharipoff's Petition for Writ of Habeas Corpus [ECF 2]. Ms. Sharipoff objected. [ECF 57]. Mr. Persson filed a response. [ECF 58]. Upon review, I agree with Judge Acosta, and I DENY the petition and decline to issue a certificate of appealability.

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 Russo's recommendation and I ADOPT the F&R [55]. I DENY Ms. Sharipoff's Petition for Writ of Habeas Corpus [2]. Because Ms. Sharipoff has failed to make 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). This case is DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 1st day of June, 2020.

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