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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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United States of America,)

No. CR 03-0794-PHX-JAT-07
CV 07-2094-PHX-JAT (JCG)

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Plaintiff/Respondent,)

ORDER

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vs.)

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Nicholas Pablo,)

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Defendant/Petitioner/Movant.)

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Pending before the Court is Movant's Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 (Doc. #1/#1234). The Magistrate Judge issued a Report and Recommendation ("R&R") (Doc. #2) recommending that the Motion be denied.¹

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¹ Due to a change in the Court's docketing system, the Government's response is docketed only in the CR number, at Doc. #1266.

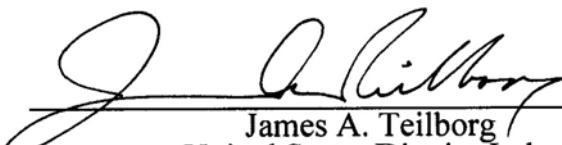
1 However, the Court notes that, in contradiction of *Reyna-Tapia* and *Schmidt*, the
2 Magistrate Judge states that her recommendation is subject to the District Court conducting,
3 “its independent review of the record.” The Court is unclear whether the Magistrate Judge
4 is attempting to direct this Court to conduct a *de novo* review or is suggesting some other
5 standard. Nonetheless, consistent with *Reyna-Tapia* and *Schmidt*, this Court has not
6 conducted any review because no objections were filed. If Petitioner (or Respondents) failed
7 to file objections in reliance on the Magistrate Judge’s admonition to the District Court,
8 either party may move for reconsideration of this Order within thirty days and shall
9 contemporaneously file such parties’ objections with the motion for reconsideration.

10 Accordingly,

11 **IT IS ORDERED** that the Magistrate Judge’s Report and Recommendation (Doc. #2)
12 is **ACCEPTED and ADOPTED**;

13 **IT IS FURTHER ORDERED** that Movant's Motion to Vacate, Set Aside or Correct
14 Sentence pursuant to 28 U.S.C. § 2255 (Doc. #1/#1234) is **DENIED WITH PREJUDICE**;
15 and the Clerk of the Court shall enter judgment accordingly.

16 DATED this 11th day of September, 2008.

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19 
20 James A. Teilborg
21 United States District Judge