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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,)	No. CR 05-0749-PHX- NVW
Plaintiff/Respondent,)	No. CV 08-0176-PHX-NVW (JRI)
vs.)	ORDER
Oscar Calvillo-Jimenez,)	
Defendant/Movant.)	

Before the court is the defendant's Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. Section 2255 (CV doc. #1), the government's Response (CR doc. #79), the reply (CR doc. # 80), the supplemental responses (CV doc. # 11, 16), and the supplemental reply (doc. # 17). On August 13, 2009, United States Magistrate Judge Jay Irwin issued a Report and Recommendation ("R & R") (CV doc. # 18) recommending that the defendant's Motion to Vacate, Set Aside or Correct Sentence be denied. No objections were filed to the R & R.

Because the parties did not file objections, the court need not review any of the Magistrate Judge's determinations on dispositive matters. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); *Thomas v. Arn*, 474 U.S. 140, 149 (1985) ("[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is not the subject of an objection."). The absence of a timely objection also means that error may not be assigned on appeal to any defect in the

1 rulings of the Magistrate Judge on any non-dispositive matters. Fed. R. Civ. P. 72(a) (“A
2 party may serve and file objections to the order within 10 days after being served with a copy
3 [of the magistrate’s order]. A party may not assign as error a defect in the order not timely
4 objected to.”); *Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996); *Philipps*
5 *v. GMC*, 289 F.3d 1117, 1120-21 (9th Cir. 2002).


6 Notwithstanding the absence of an objection, the court has reviewed the R&R and
7 finds that it is well taken. The court will accept the R&R and deny the Petition. *See* 28
8 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole or
9 in part, the findings or recommendations made by the magistrate”).

10 IT IS THEREFORE ORDERED accepting the Report and Recommendation of
11 Magistrate Judge Irwin (doc. # 18).

12 IT IS FURTHER ORDERED that defendant's Motion to Vacate, Set Aside or Correct
13 Sentence pursuant to 28 U.S.C. Section 2255 (CV doc. # 1) is denied.

14 IT IS FURTHER ORDERED that the Clerk of the Court shall enter judgment denying
15 the Petition and shall terminate this action.

16 DATED this 5th day of October, 2009.

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Neil V. Wake
United States District Judge