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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Richard Scott Jongeward,

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No. CV-08-562-PHX-GMS

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Petitioner,

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No. CV-09-1252-PHX-GMS
(Consolidated)

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v.

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ORDER

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Charles Ryan, et al.,

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Respondents.

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Pending before the Court are Petitioner's Petition for Writ of Habeas Corpus and

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United States Magistrate Judge Jacqueline Marshall's Report and Recommendation ("R&R")

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in case No. 09-1252-PHX-GMS. (Doc. 1, 36). The R&R recommends that the Court

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dismiss the Petition. (Doc. 36 at 16). The Magistrate Judge advised the parties that they had

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fourteen days to file objections to the R&R and that failure to file timely objections could be

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considered a waiver of the right to obtain review of the R&R. *Id.* at 16-17 (citing *United*

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States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*)).

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Despite being advised of his ability to file objections to the R&R, Petitioner did not

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file an objection, but instead filed a Notice of Appeal (Doc. 38). Even should this Court

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consider the Notice of Appeal as an objection, it contains no objections to the R&R. Because

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Petitioner did not raise any objections to the R&R, the Court is relieved of its obligation to

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review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149

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(1985) ("[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is not

1 the subject of an objection.”); Fed. R. Civ. P. 72(b)(3) (“The district judge must determine
2 de novo any part of the magistrate judge’s disposition that has been properly objected to.”).
3 The Court has nonetheless reviewed the R&R and finds that it is well-taken. The Court will
4 accept the R&R and dismiss the Petition. *See* 28 U.S.C. § 636(b)(1) (stating that the district
5 court “may accept, reject, or modify, in whole or in part, the findings or recommendations
6 made by the magistrate”); Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject,
7 or modify the recommended disposition; receive further evidence; or return the matter to the
8 magistrate judge with instructions.”).

9 **IT IS ORDERED:**

- 10 1. Magistrate Judge Marshall’s R&R (Doc. 36) is **ACCEPTED**.
- 11 2. Petitioner’s Petition for Writ of Habeas Corpus (Doc. 1) filed in Case No. CV-
12 09-1252-PHX-GMS is **DISMISSED**.
- 13 3. The Clerk of the Court shall **TERMINATE** both actions.
- 14 4. Pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, in the even
15 Petitioner files an appeal, the Court declines to issue a certificate of appealability because
16 reasonable jurists would not find the Court’s procedural ruling debatable. *See Slack v.*
17 *McDaniel*, 529 U.S. 473, 484 (2000).

18 DATED this 23rd day of September, 2010.

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21 G. Murray Snow
22 United States District Judge
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