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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

United States of America,	)	No. CR 07-1135 PHX-NVW
Plaintiff/Respondent,	)	No. CV 09-0312 PHX-NVW (MEA)
vs.	)	<b>ORDER</b>
Rigoberto Mendoza Guesar,	)	
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 (doc. #1) and the government's Response (doc. #9). No reply was filed. On June 26, 2009, United States Magistrate Judge Aspey issued a Report and Recommendation ("R & R") (doc. #10) recommending that the defendant's Motion to Vacate, Set Aside or Correct Sentence be denied and dismissed with prejudice. 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 rulings of the Magistrate Judge on any non-dispositive matters. Fed. R. Civ. P. 72(a) ("A party may serve and file objections to the order within 10 days after being served with a copy

1 [of the magistrate's order]. A party may not assign as error a defect in the order not timely  
2 objected to.”); *Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996); *Philipps*  
3 *v. GMC*, 289 F.3d 1117, 1120-21 (9th Cir. 2002).

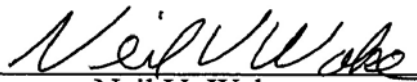
4 Notwithstanding the absence of an objection, the court has reviewed the R&R and  
5 finds that it is well taken. The court will accept the R&R and deny the Petition and dismiss  
6 it with prejudice. *See* 28 U.S.C. § 636(b)(1) (stating that the district court “may accept,  
7 reject, or modify, in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

9 IT IS THEREFORE ORDERED accepting the Report and Recommendation of  
10 Magistrate Judge Aspey (doc. #10).

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

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

16 DATED this 27<sup>th</sup> day of July, 2009.

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22 Neil V. Wake  
23 United States District Judge  
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