

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Ramon Cardoza Desantiago,
Petitioner,
v.
Charles L. Ryan, et. al.,
Respondents.

) No. CV09-1268-PHX-NVW
)
) **ORDER**
) **and**
) **CERTIFICATE OF APPEALABILITY**
) **AND IN FORMA PAUPERIS STATUS**

Pending before the court is the Report and Recommendation (“R&R”) of Magistrate Judge Jay R. Irwin (Doc. 13) regarding petitioner’s Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1). The R&R recommends that the Petition be denied and dismissed with prejudice. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at 11) No objections were filed.

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; 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 14 days after being served with a copy [of the magistrate’s order]. A party may not assign as error a defect in the order not timely objected to.”);

1 *Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996); *Philippis v. GMC*, 289
2 F.3d 1117, 1120-21 (9th Cir. 2002).

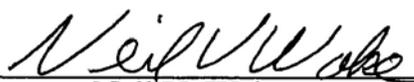
3 Notwithstanding the absence of an objection, the court has reviewed the R&R and
4 finds that it is well taken. The court will accept the R&R and dismiss the Petition. *See* 28
5 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole or
6 in part, the findings or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

7 IT IS THEREFORE ORDERED that Report and Recommendation of the Magistrate
8 Judge (Doc. 13) is accepted.

9 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying and
10 dismissing petitioner's Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254
11 (Doc. 1) with prejudice. The Clerk shall terminate this action.

12 Having considered the issuance of a Certificate of Appealability from the order
13 denying Petitioner's Petition for a Writ of Habeas Corpus, the Court FINDS: Certificate of
14 Appealability and leave to proceed *in forma pauperis* on appeal are **Denied**. Petitioner has
15 not made a substantial showing of the denial of a constitutional right.

16 DATED this 27th day of October, 2010.

17
18
19 
20 _____
Neil V. Wake
United States District Judge