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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Juan Arellano-Valle,
Petitioner,
vs.
Eric H. Holder, Jr. United States Attorney
General, et al.,
Respondents.

No. CIV 09-1448-PHX-JAT (DKD)
REPORT AND RECOMMENDATION

TO THE HONORABLE JAMES A. TEILBORG, UNITED STATES DISTRICT JUDGE:

Represented by counsel, Petitioner Juan Arrellano-Valle filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 on July 13, 2009. In his petition, he alleges that as a result of a heart-lung transplant he received on June 7, 2008 and his compromised immune system, his continued detention poses a grave danger to his survival (Doc. #3). On July 20, he filed an emergency motion for an expedited hearing (Doc. #13). On July 28, 2009, Arellano moved to withdraw his petition, based on the government’s agreement to release him.

IT IS THEREFORE RECOMMENDED that Juan Arellano’s Motion to Withdraw Petition be **granted** and that his Petition for Writ of Habeas Corpus be **dismissed** (Doc. #3, 18).

IT IS FURTHER ORDERED that his Emergency Motion to Expedite Hearing is **denied as moot** (Doc. #13).

1 This recommendation is not an order that is immediately appealable to the Ninth
2 Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of
3 Appellate Procedure, should not be filed until entry of the district court's judgment. The
4 parties shall have ten days from the date of service of a copy of this recommendation within
5 which to file specific written objections with the Court. *See*, 28 U.S.C. § 636(b)(1); Rules
6 72, 6(a), 6(e), Federal Rules of Civil Procedure. Thereafter, the parties have ten days within
7 which to file a response to the objections. Failure timely to file objections to the Magistrate
8 Judge's Report and Recommendation may result in the acceptance of the Report and
9 Recommendation by the district court without further review. *See United States v. Reyna-*
10 *Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Failure timely to file objections to any factual
11 determinations of the Magistrate Judge will be considered a waiver of a party's right to
12 appellate review of the findings of fact in an order or judgment entered pursuant to the
13 Magistrate Judge's recommendation. *See* Rule 72, Federal Rules of Civil Procedure.

14 DATED this 6th day of August, 2009.

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18 David K. Duncan
19 United States Magistrate Judge
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