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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Kenneth W. Cannon,)	No. CV-09-01817-PHX-ROS
Petitioner,)	ORDER
vs.)	
Charles L. Ryan, et al.,)	
Respondents.)	

Pending before the Court is Magistrate Judge Edward C. Voss’ Report and Recommendation, which was filed on July 28, 2010. (Doc. 15). Magistrate Judge Voss recommends the petition for writ of habeas corpus be denied and dismissed with prejudice, Petitioner has not filed any objections.

A district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 USC § 636(b). Where any party has filed timely objections to the magistrate judge’s report and recommendations, the district court’s review of the part objected to is to be *de novo*. *Id.*; see also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (“Following *Reyna-Tapia*, this Court concludes that *de novo* review of factual and legal issues is required if objections are made, but not otherwise.”) (internal quotations and citations omitted).

1 No objections being made, the Court will adopt the Report and Recommendation in
2 full. Pursuant to 28 U.S.C. foll. § 2254, R. 11, the Court must “issue or deny a certificate of
3 appealability when it enters a final order adverse to the applicant.” A certificate of
4 appealability will be denied because the applicant passed away and his requested relief is
5 therefore moot.


6 Accordingly,

7 **IT IS ORDERED** the Report and Recommendation (Doc. 15) is **ADOPTED** and
8 the Petition (Doc. 1) shall be **DENIED** and **DISMISSED WITH PREJUDICE**.

9 **FURTHER ORDERED** a certificate of appealability **IS DENIED**.

10 DATED this 8th day of September, 2010.

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Roslyn O. Silver
United States District Judge