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2 **NOT FOR PUBLICATION**

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

9	Jose Rutia-Perez,)	No. CV-09-2098-PHX-GMS (DKD)
10	Petitioner,)	ORDER
11	v.)	
12	Charles L. Ryan, et al.,)	
13	Respondents.)	
14	_____)	

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

17 United States Magistrate Judge Duncan’s Report and Recommendation (“R&R”). Dkt. ##

18 1, 22. The R&R recommends that the Court deny and dismiss with prejudice the Petition.

19 Dkt. # 22 at 4. The Magistrate Judge advised the parties that they had ten days to file

20 objections to the R&R and that failure to file timely objections could be considered a waiver

21 of the right to obtain review of the R&R. *Id.* at 4 (citing 28 U.S.C. § 636(b)(1); Fed. R. Civ.

22 P. 72, 6(a), 6(e); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)).

23 The parties did not file objections, which relieves the Court of its obligation to review

24 the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149 (1985)

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

26 subject of an objection.”); Fed. R. Civ. P. 72(b)(3) (“The district judge must determine *de*

27 *novo* any part of the magistrate judge’s disposition that has been properly objected to.”). The

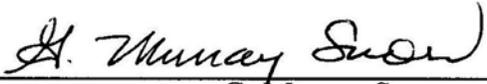
28 Court has nonetheless reviewed the R&R and finds that it is well-taken. The Court will

1 accept the R&R and deny and dismiss with prejudice the Petition. *See* 28 U.S.C. § 636(b)(1)
2 (stating that the district court “may accept, reject, or modify, in whole or in part, the findings
3 or recommendations made by the magistrate”); Fed. R. Civ. P. 72(b)(3) (“The district judge
4 may accept, reject, or modify the recommended disposition; receive further evidence; or
5 return the matter to the magistrate judge with instructions.”).

6 **IT IS ORDERED:**

- 7 1. Magistrate Judge Duncan’s R&R (Dkt. # 22) is **accepted**.
- 8 2. Petitioner’s Petition for Writ of Habeas Corpus (Dkt. # 1) is **denied and**
9 **dismissed with prejudice**.
- 10 3. The Clerk of Court shall **terminate** this action.
- 11 4. Pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, in the even
12 Petitioner files an appeal, the Court declines to issue a certificate of appealability because
13 reasonable jurists would not find the Court’s procedural ruling debatable. *See Slack v.*
14 *McDaniel*, 529 U.S. 473, 484 (2000).

15 DATED this 22nd day of June, 2010.

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18 G. Murray Snow
19 United States District Judge
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