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NOT FOR PUBLICATION

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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Darryl Lee White,

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No. CV-09-02167-PHX-FJM

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Petitioner,

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ORDER

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vs.

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Charles L. Ryan, et al.,

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Respondents.

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The court has before it Darryl White’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (doc. 1), respondents’ answer (doc. 11), and petitioner’s reply (doc. 12). We also have before us petitioner’s motion to stay (doc. 14) and the report and recommendation of the United States Magistrate Judge recommending that the petition and the motion to stay be denied (doc. 15). Petitioner did not object to the report and recommendation, and the time for doing so has expired.

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After review, we accept the recommendations of the United States Magistrate Judge pursuant to Rule 8(b), Rules Governing § 2254 Cases. We deny the petition for writ of habeas corpus and the motion to stay.

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Next, we determine whether to issue a certificate of appealability. Rule 11(a), Rules Governing § 2254 Cases. Petitioner has not made a substantial showing of the denial of a constitutional right, the petition’s denial is justified by a plain procedural bar, and jurists of

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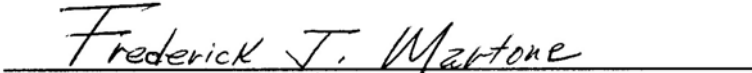
1 reason would not find the procedural ruling debatable. Moreover, briefing on whether a
2 certificate should issue would not be helpful. Therefore, we deny a certificate of
3 appealability.

4 **IT IS THEREFORE ORDERED DENYING** petitioner's motion to stay (doc. 14).

5 **IT IS FURTHER ORDERED DENYING** the petition for writ of habeas corpus
6 (doc. 1).

7 **IT IS FURTHER ORDERED DENYING** a certificate of appealability.

8 DATED this 8th day of April, 2010.

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11 Frederick J. Martone
12 United States District Judge
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