

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

NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Gabriel James Sullivan,)	No. CV09-2415-PHX-SRB
Petitioner,)	ORDER
vs.)	
Charles Ryan, et al.)	
Respondents.)	

Petitioner filed his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 on November 18, 2009 raising three ground for relief: 1) violation of his Sixth Amendment right of confrontation by the admission of a videotaped interview of the victim; 2) violation of his Eighth Amendment rights because his 15-year prison sentence constituted cruel and unusual punishment and; 3) violation of his Sixth Amendment right to effective assistance of counsel. On March 8, 2010, Respondents filed their Response to Petitioner’s Petition for Writ of Habeas Corpus. No reply was filed. On February 7, 2011, the Magistrate Judge issued his Report and Recommendation recommending that the petition be denied. .

In his Report and Recommendation the Magistrate Judge advised the parties that they had 14 days from the date of service of a copy of the Report and Recommendation within which to file specific written objections with the Court. The time to file such objections has expired and no objections to the Report and Recommendation have been filed.

1 The Court has reviewed the petition, response and their attachments and the Report
2 and Recommendation of the Magistrate Judge. The Court finds itself in agreement with the
3 Report and Recommendation of the Magistrate Judge.

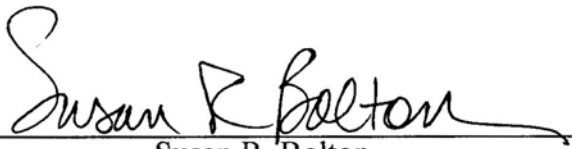
4 IT IS ORDERED adopting the Report and Recommendation of the Magistrate Judge
5 as the order of this Court.

6 IT IS FURTHER ORDERED that the Petition for Writ of Habeas Corpus is denied
7 on the merits of the claims raised in Grounds One and Two and denied on Ground Three
8 based on procedural default

9 IT IS FURTHER ORDERED denying any Certificate of Appealability and leave to
10 proceed *in forma pauperis* on appeal. The dismissal of the Petition is justified by a plain
11 procedural bar and jurists of reason would not find the procedural ruling debatable and
12 because Petitioner has not made a substantial showing of the denial of a constitutional right.

13 IT IS FURTHER ORDERED directing the Clerk to enter judgment accordingly.
14

15 DATED this 15th day of March, 2011.
16

17
18 
19 _____
20 Susan R. Bolton
21 United States District Judge
22
23
24
25
26
27
28