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2 NOT FOR PUBLICATION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**

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9 Miguel Cervantes-Gutierrez,) No. CV-09-2435-PHX-GMS

10 Petitioner,) **ORDER**

11 v.)

12 Eric S. Holder, Janet Napolitano, Katrina)
13 Kane,)

14 Respondents.)
15 _____)

16 Pending before the Court are Petitioner’s Petition for Writ of Habeas Corpus and
17 United States Magistrate Judge Mark E. Aspey’s Report and Recommendation (“R&R”).
18 (Doc. 1, 17). The R&R recommends that the Court deny the Petition. The Magistrate Judge
19 advised the parties that they had fourteen days to file objections to the R&R and that failure
20 to file timely objections could be considered a waiver of the right to obtain review of the
21 R&R. *Id.* at 10-11 (citing Fed. R. Civ. P. 72(b); *United States v. Reyna-Tapia*, 328 F.3d
22 1114, 1121 (9th Cir. 2003) (*en banc*)).

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

6 **IT IS ORDERED:**

- 7 1. Magistrate Judge Aspey’s R&R (Doc. 17) is **ACCEPTED**.
- 8 2. Petitioner’s Petition for Writ of Habeas Corpus (Doc. 1) is **DENIED**.
- 9 3. The Clerk of the Court shall **TERMINATE** this action.
- 10 4. Pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, in the event
11 Petitioner files an appeal, the Court declines to issue a certificate of appealability because
12 reasonable jurists would not find the Court’s procedural ruling debatable. *See Slack v.*
13 *McDaniel*, 529 U.S. 473, 484 (2000).

14 DATED this 9th day of August, 2010.

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17 _____
18 G. Murray Snow
19 United States District Judge
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