

**MINUTES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Gordon B. Carter v. Charles L. Ryan, et al.

THE HONORABLE JOHN W. SEDWICK

2:10-cv-02169 JWS

PROCEEDINGS:

ORDER FROM CHAMBERS

July 20, 2011

Gordon B. Carter (“petitioner”) moved for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2254. The matter was briefed. Thereafter, in a report at docket 13, Magistrate Judge David K. Duncan recommended that the petition be denied and dismissed with prejudice. Petitioner filed an objection at docket 14.

The district judge may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). When reviewing a magistrate judge’s recommendations in a case such as this one, the district judge conducts *de novo* review of all recommended conclusions of law, and any recommended findings of fact to which objections have been taken. Recommended findings of fact as to which no objection has been taken are reviewed for clear error. Having applied those standards of review, this court finds that the recommended findings of fact and conclusions of law are correct in all material respects. There is nothing in the objection at docket 14 which calls into question the accuracy of the recommendation. Accordingly, this court adopts the recommendations from the magistrate judge found at docket 13. Based thereon, the petition is **DENIED**. The Clerk will please enter judgment dismissing the petition with prejudice.

IT IS FURTHER ORDERED THAT this court will not grant the Certificate of Appealability required by 28 U.S.C. § 2253(c), because dismissal of the petition is warranted by a plain procedural bar which jurists of reason would not find debatable. If petitioner desires to take an appeal he must request a Certificate of Appealability from the Court of Appeals. See Fed. R. App. P. 22(b)(1).
