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NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Kent Marshall, Petitioner, vs. Charles Ryan, et al., Respondents.	No. CV10-2544-PHX-SRB **ORDER**

Petitioner filed his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 on November 23, 2010 raising two grounds for relief. Plaintiff claims a violation of his Sixth Amendment right to have effective assistance of counsel and a violation of his Sixth Amendment right to have a jury determination of the facts which aggravated his sentence. Respondents filed their answer to Petitioner's Petition for Writ of Habeas Corpus on May 6, 2011 and Petitioner filed a traverse on August 25, 2011. On September 14, 2011, the Magistrate Judge issued his Report and Recommendation recommending that the petition be denied and dismissed with prejudice.

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.

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The time to file such objections has since expired and no objections to the Report and Recommendation have been filed.

The Court finds itself in agreement with the Report and Recommendation of the Magistrate Judge.

IT IS ORDERED adopting the Report and Recommendation of the Magistrate Judge as the order of this Court (Doc. 18).

IT IS FURTHER ORDERED that the Petition for Writ of Habeas Corpus is denied and dismissed with prejudice.

IT IS FURTHER ORDERED denying a certificate of Appealability because Petitioner has not made a substantial showing of the denial of a constitutional right as required by 28 U.S.C.A. § 2253(c)(2).

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

DATED this 12th day of October, 2011.

Susan R. Bolton
United States District Judge