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

United States of America,

Plaintiff/Respondent,

vs.

James R. Schaffer,

Defendant/Movant.

No. CR05-0870 PHX DGC
CV11-0223 PHX DGC

ORDER

Defendant/Movant James R. Schaffer has filed a motion to vacate sentence pursuant to 28 U.S.C. § 2255 (Doc. 1), the government has filed a motion to dismiss the motion to vacate sentence (Doc. 5), and United States Magistrate Judge David K. Duncan has issued a report and recommendation (“R&R”) recommending that the government’s motion to dismiss be granted and Defendant/Movant’s motion to vacate sentence be denied. Doc. 7. No objection has been filed, which relieves the Court of its obligation to review the R&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). The Court will accept the R&R, grant the government’s motion to dismiss and deny Defendant/Movant’s motion to vacate sentence.

IT IS ORDERED:

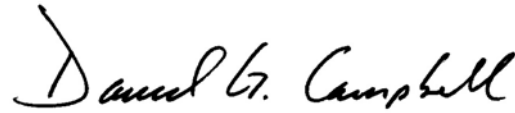
1. The R&R (Doc. 7) is **accepted**.
2. The government’s motion to dismiss (Doc. 5) is **granted**.
2. The motion to vacate sentence (Doc. 1) is **denied**.
3. A certificate of appealability and leave to proceed *in forma pauperis* on

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appeal are **denied**

4. The Clerk is directed to **terminate** this action.

Dated this 8th day of September, 2011.



David G. Campbell
United States District Judge