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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Ivan Guerrero-Melchor,  
Petitioner,  
vs.  
United States of America,  
Respondent.

) No. CR-06-1143-PHX-ROS  
) No. CV-11-1169-PHX-ROS

**ORDER**

On September 27, 2011, United States Magistrate Judge Duncan issued a Report and Recommendation. (Doc. 6). Plaintiff has not objected to the Report and Recommendation.

A district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b). Where any party has filed timely objections to the magistrate judge's report and recommendations, the district court’s review of the part objected to is to be *de novo*. *Id.*; see also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (“Following *Reyna-Tapia*, this Court concludes that *de novo* review of factual and legal issues is required if objections are made, but not otherwise.”) (internal quotations and citations omitted).

No objections being made, the Court will adopt the Report and Recommendation in full.

Accordingly,

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**IT IS ORDERED** the Report and Recommendation (**Doc. 6**) is **ADOPTED**.

**IT IS ORDERED** Petitioner's motion to vacate, set aside or correct sentence (**Doc. 1**) is **DENIED**. The case is dismissed with prejudice.

**IT IS ORDERED** a Certificate of Appealability and leave to proceed *in forma pauperis* on appeal is denied because the denial of the motion is justified by a plain procedural bar and jurists of reason would not find the ruling debatable, and because Petitioner has not made a substantial showing of the denial of a constitutional right.

DATED this 2nd day of November, 2011.

  
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Roslyn O. Silver  
Chief United States District Judge