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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Matthew Caine Gaddis,  
Petitioner,

vs.

Charles L. Ryan, et al.,  
Respondents.

No. CV-11-01769-PHX-PGR (JFM)

ORDER

Having reviewed *de novo* the Report and Recommendation on Motion to Stay (Doc. 16) and Report and Recommendation on Petition for Writ of Habeas Corpus (Doc. 20), both issued by Magistrate Judge James Metcalf, notwithstanding that no party has objected to either Report and Recommendation, the Court finds that the Magistrate Judge correctly concluded, first, that the petitioner has not established that he is entitled to a stay of this action in order to exhaust state remedies, second, that the petitioner's amended petition for a writ of habeas corpus, filed pursuant to 28 U.S.C. § 2254, must be denied because the petitioner's federal claims are all procedurally defaulted given that he failed to fairly present them to the state courts and cannot now do so, he has failed to proffer any good cause to excuse the procedural default, and he has not made any claim of actual innocence, and third,

1 that the petitioner is not entitled to the issuance of a certificate of appealability  
2 because he has not demonstrated that jurists of reason would find it debatable  
3 whether his amended petition states a valid claim of the denial of a constitutional  
4 right or whether jurists of reason would find it debatable whether the Court is correct  
5 in its procedural ruling. Therefore,

6 IT IS ORDERED that the Magistrate Judge's Report and Recommendation on  
7 Motion to Stay (Doc. 16) and Report and Recommendation on Petition for Writ of  
8 Habeas Corpus (Doc. 20) are both accepted and adopted by the Court.

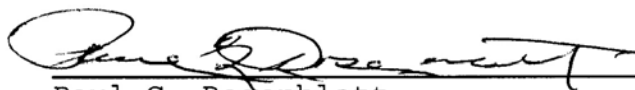
9 IT IS FURTHER ORDERED that the petitioner's Motion to Stay Writ of Habeas  
10 Corpus (Doc. 12) is denied.

11 IT IS FURTHER ORDERED that the petitioner's First Amended Petition Under  
12 28 U.S.C. § 2254 for a Writ of Habeas Corpus by a Person in State Custody (Doc.  
13 6) is denied and that this action is dismissed with prejudice.

14 IT IS FURTHER ORDERED that no certificate of appealability shall be issued.

15 IT IS FURTHER ORDERED that the Clerk of the Court shall enter judgment  
16 accordingly.

17 DATED this 13<sup>th</sup> day of November, 2012.

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20 Paul G. Rosenblatt  
21 United States District Judge  
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