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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Allan Kenneth Morgal,
Petitioner,
vs.
Charles L. Ryan, et al.,
Respondents.

No. CV-11-02552-PHX-NVW

**ORDER
AND DENIAL OF
CERTIFICATE OF APPEALABILITY**

Pending before the court is the Report and Recommendation (“R&R”) of Magistrate Judge Bridget S. Bade (Doc. 25) regarding petitioner’s Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1). The R&R recommends that the Petition be denied and dismissed. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at P. 32 (citing 28 U.S.C. § 636(b)). Upon Motion of the Petitioner, the Court further extended the deadline for objections until February 22, 2013 (Doc. 27). Petitioner filed objections on February 11, 2013 (Doc. 28).

The court has considered the objections and reviewed the Report and Recommendation de novo. *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that the court must make a de novo determination of those portions of the Report and Recommendation to which specific objections are made). The court agrees with the Magistrate Judge’s determinations, accepts the recommended decision within the

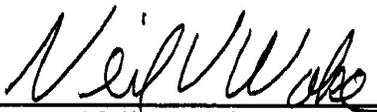
1 meaning of Rule 72(b), Fed. R. Civ. P., and overrules Petitioner's objections. *See* 28
2 U.S.C. § 636(b)(1) (stating that the district court "may accept, reject, or modify, in whole
3 or in part, the findings or recommendations made by the magistrate").

4 IT IS THEREFORE ORDERED that Report and Recommendation of the
5 Magistrate Judge (Doc. 25) is accepted.

6 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying
7 and dismissing petitioner's Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C.
8 § 2254 (Doc. 1). The Clerk shall terminate this action.

9 Having considered the issuance of a Certificate of Appealability from the order
10 denying Petitioner's Petition for a Writ of Habeas Corpus, and Petitioner's Request for
11 Certificate of Appealability (Doc. 30) the Court FINDS: Certificate of Appealability and
12 leave to proceed in forma pauperis on appeal are **Denied**. With regard to Counts 4 and 9,
13 the Petition lacks a substantial question. All other counts are procedurally defaulted.
14 Petitioner has not made a substantial showing of the denial of a constitutional right.

15 Dated this 20th day of February, 2013.

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19 Neil V. Wake
20 United States District Judge
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