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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Kenneth Burnam,

Petitioner,

vs.

Dennis R. Smith, Warden,

Respondent.

No. CV-12-00043-PHX-PGR (MHB)

ORDER

Having reviewed *de novo* the Report and Recommendation of Magistrate Judge Burns notwithstanding that no party has filed any objections to the Report and Recommendation, the Court finds that the Magistrate Judge correctly determined that the petitioner's federal habeas petition, filed pursuant to 28 U.S.C. § 2241, should be dismissed because the petitioner, a federal prisoner, failed to exhaust his administrative remedies inasmuch as he did not properly appeal his disciplinary sanction through the Bureau of Prison's final administrative appeal stage.

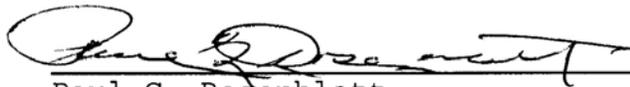
The Court further finds that even if the non-exhaustion of administrative remedies is excused, as requested by the petitioner, the Magistrate Judge correctly determined, alternatively, that the habeas petition should be dismissed on its merits because the record establishes that the petitioner was not deprived of any of his due

1 process rights inasmuch as he received all of the procedural safeguards due him
2 during his disciplinary hearing and there was sufficient evidence produced during
3 that hearing to support the disciplinary finding made against him by the prison's Unit
4 Disciplinary Committee. Therefore,

5 IT IS ORDERED that the Magistrate Judge's Report and Recommendation
6 (Doc. 19) is accepted and adopted by the Court.

7 IT IS FURTHER ORDERED that the petitioner's [Amended] Petition Under 28
8 U.S.C. § 2241 for a Writ of Habeas Corpus by a Person in Federal Custody (Doc.
9 8) is denied and that this action is dismissed with prejudice. The Clerk of the Court
10 shall enter judgment accordingly.

11 DATED this 7th day of October, 2013.

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14 Paul G. Rosenblatt
15 United States District Judge
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