



1 that factual background in full. Petitioner appears to object, however, to everything in the  
2 R&R other than the factual background. Those objections are difficult to understand and  
3 appear to be general objections rather than “specific” objections required by Federal Rule of  
4 Civil Procedure 72. As noted by another judge, “general objections to an R & R are  
5 tantamount to no objection at all.” *Gutierrez v. Flannican*, 2006 WL 2816599, at \*2 (D.  
6 Ariz. Sept. 29, 2006). Thus, the Court could summarily adopt the R&R in full. However,  
7 out of an abundance of caution, the Court will review *de novo* the R&R’s conclusion on each  
8 of Petitioner’s claims.

## 9 **II. Five of Petitioner’s Claims Are Barred**

10 The R&R concludes five of Petitioner’s claims are either “procedurally defaulted,  
11 noncognizable, or moot.” (Doc. 20 at 9-10). Having reviewed the claims *de novo*, the R&R  
12 is correct. That is, the R&R correctly reached the following five conclusions: 1) Petitioner  
13 did not identify the *federal* basis for portions of one claim based on his counsel allegedly  
14 admitting his guilt; 2) there is no constitutional right to severance of charges; 3) Petitioner  
15 already obtained relief on his sentencing error claim; 4) errors of state sentencing law are not  
16 cognizable in federal habeas; and 5) Petitioner did not raise his claim regarding the  
17 composition of the jury as a separate “substantive claim” during state proceedings. (Doc. 20  
18 at 9-10). Therefore, the R&R will be adopted regarding these five claims.

## 19 **III. Petitioner’s Remaining Claims Fail on the Merits**

20 The R&R addresses the merits of five claims. Having reviewed those claims *de novo*,  
21 the R&R correctly rejects all five. In brief: 1) Petitioner has not shown the state court’s  
22 decision on his ineffective assistance of counsel claim based on counsel’s statement  
23 regarding guilt was “objectively unreasonable.” *See Woodford v. Visciotti*, 537 U.S. 19, 27  
24 (2002); 2) Petitioner has not established any meaningful failure to turn over exculpatory  
25 evidence because the evidence was available at the time of trial; 3) Petitioner has not  
26 established any claim based on juror misconduct; 4) Petitioner was not denied effective  
27 assistance of appellate counsel because the alleged sentencing error was corrected; and 5)  
28 Petitioner’s ineffective assistance of counsel argument based on the firearm being inoperable

1 was properly rejected because Arizona law does not require the weapon be operable.

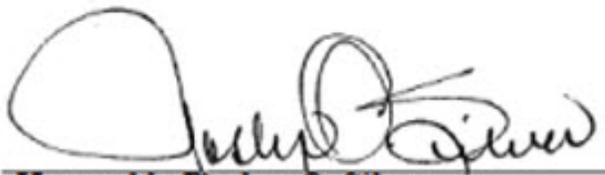
2 Accordingly,

3 **IT IS ORDERED** the Report and Recommendation (**Doc. 20**) is **ADOPTED** and the  
4 Petition for Writ of Habeas Corpus is **DENIED** and **DISMISSED WITH PREJUDICE**.

5 **IT IS FURTHER ORDERED** a Certificate of Appealability and leave to proceed in  
6 forma pauperis on appeal are **DENIED**. Dismissal of certain portions of the petition is  
7 justified by a plain procedural bar and jurists of reason would not find the ruling debatable.  
8 On the remaining portions of the petition, Petitioner has not made a substantial showing of  
9 the denial of a constitutional right.

10 DATED this 27<sup>th</sup> day of May, 2014.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



Honorable Roslyn O. Silver  
Senior United States District Judge