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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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Johnny Rodriguez,

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No. CV 12-00490-PHX-FJM

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Petitioner,

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**ORDER**

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vs.

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Charles L. Ryan, et al.,

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Respondents.

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The court has before it petitioner’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (doc. 1), respondents’ response (doc. 15), and the report and recommendation from the United States Magistrate Judge recommending that the petition be dismissed with prejudice (doc. 16). No objection to the report and recommendation was filed and the time for doing so has expired.

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Pursuant to Rule 8(b), Rules Governing § 2254 Cases, we accept the recommended decision of the United States Magistrate Judge. Therefore, **IT IS ORDERED DENYING AND DISMISSING** with prejudice the petition for writ of habeas corpus (doc. 1).

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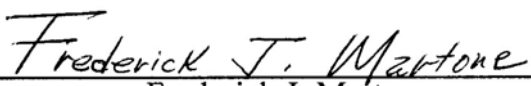
**IT IS FURTHER ORDERED DENYING** a certificate of appealability and leave to proceed *in forma pauperis* on appeal because dismissal of the habeas petition is justified by a plain procedural bar and jurists of reason would not find the ruling debatable.

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DATED this 31<sup>st</sup> day of January, 2013.

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Frederick J. Martone  
United States District Judge