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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Simon Beaubier,

Petitioner,

vs.

Charles L. Ryan, et al.,

Respondents.

No. CV-12-00545-PHX-PGR (BSB)

ORDER

Having reviewed *de novo* the Report and Recommendation of Magistrate Judge Bade notwithstanding that no party has filed any objections to the Report and Recommendation, the Court finds that the Magistrate Judge correctly concluded that the petitioner's Petition for a Writ of Habeas Corpus, timely filed pursuant to 28 U.S.C. § 2254, should be denied because it lacks merit.

The petition raises a single exhausted claim that the petitioner's sentence of natural life stemming from a plea of guilty to a count of first-degree murder was improperly imposed pursuant to Blakely v. Washington, 542 U.S. 296 (2004), because the facts necessary to increase the sentence from statutory life to natural life were not determined by a jury. The Court agrees with the Magistrate Judge that because the petitioner's conviction for first-degree murder authorized the state court

1 under Arizona law to impose a life sentence either with or without the possibility of  
2 parole without having to make any additional factual findings beyond those reflected  
3 in the guilty plea, his sentence does not implicate his Sixth Amendment jury trial right  
4 as set forth in Blakely and Apprendi v. New Jersey, 530 U.S. 466 (2000), and that  
5 the state courts' resolution of his Sixth Amendment claim on that ground was not  
6 contrary to or an unreasonable application of clearly established Supreme Court law.

7 Therefore,

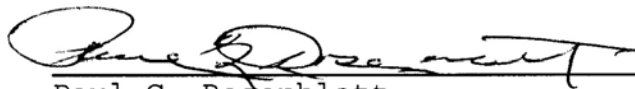
8 IT IS ORDERED that the Magistrate Judge's Report and Recommendation  
9 (Doc.12) is accepted and adopted by the Court.

10 IT IS FURTHER ORDERED that the petitioner's Petition Under 28 U.S.C.  
11 § 2254 for a Writ of Habeas Corpus by a person in State Custody is denied and that  
12 this action is dismissed with prejudice.

13 IT IS FURTHER ORDERED that a certificate of appealability shall not be  
14 issued and that leave to appeal *in forma pauperis* is denied because the petitioner  
15 has not made a substantial showing of the denial of a constitutional right.

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

18 DATED this 2<sup>nd</sup> day of July, 2013.

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20   
21 Paul G. Rosenblatt  
United States District Judge