Montgomery # 108379 v. Ryan et al Doc. 47

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

James Thurmond Montgomery, Petitioner, vs. Charles L. Ryan, et al., Respondents.	No. CV-12-00758-PHX-ROS **ORDER**

On October 8, 2013, Magistrate Judge James F. Metcalf issued a Report and Recommendation ("R&R") recommending the petition for writ of habeas corpus be denied. (Doc. 46). No objections were filed.

A district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b). Where any party has filed timely objections to the magistrate judge's report and recommendations, the district court's review of the part objected to is to be *de novo*. *Id.* If, however, no objections are filed, the district court need not conduct such a review. *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003). No objections having been filed, the R&R will be adopted in full.

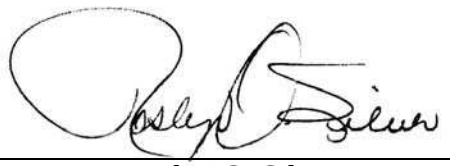
Accordingly,

IT IS ORDERED the Report and Recommendation (**Doc. 46**) is **ADOPTED**. The petition for a writ of habeas corpus is **DENIED**. The Clerk shall enter judgment accordingly.

Dockets.Justia.com

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

DATED this 20th day of November, 2013.



Roslyn O. Silver
Senior United States District Judge