

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**WO**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Agustine Vasquez-Mendoza,  
Petitioner,  
vs.  
Charles L. Ryan, et al.,  
Respondents.

No. CV-12-01189-PHX-PGR (JFM)

ORDER

Having reviewed *de novo* the Report and Recommendation of Magistrate Judge Metcalf in light of the petitioner’s Response to Report and Recommendation on Petition for Writ of Habeas Corpus (Doc. 40), the Court finds that the petitioner’s objections should be overruled because the Magistrate Judge, after conducting a very thorough analysis of the petitioner’s claims in light of the habeas record, correctly concluded that the petitioner’s habeas corpus petition, filed pursuant to 28 U.S.C. § 2254, should be denied.

The Court agrees with the Magistrate Judge that the petitioner procedurally defaulted on all eight grounds for relief he raises in his habeas petition. The Court also agrees with the Magistrate Judge that the petitioner’s various claims of the ineffectiveness of his trial, appellate, and post-conviction relief counsel are not

1 sufficient, given the habeas record, to constitute cause for his procedural defaults.  
2 The Court further agrees with the Magistrate Judge that the petitioner's claim of  
3 actual innocence is insufficient under the facts contained in the habeas record to  
4 avoid the effects of his procedural defaults. Therefore,

5 IT IS ORDERED that the Magistrate Judge's Report and Recommendation  
6 (Doc. 39) is accepted and adopted in its entirety by the Court.

7 IT IS FURTHER ORDERED that petitioner Agustine Vasquez-Mendoza's  
8 Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus by a Person in State  
9 Custody is denied and that this action is dismissed with prejudice.

10 IT IS FURTHER ORDERED that no certificate of appealability shall issue and  
11 that the petitioner is denied leave to appeal *in forma pauperis* because jurists of  
12 reason would neither find it debatable whether the petitioner has made a substantial  
13 showing of the denial of a constitutional right nor whether the Court is correct in its  
14 procedural ruling.

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

17 DATED this 11<sup>th</sup> day of May, 2015.

18  
19 

20 Paul G. Rosenblatt  
21 United States District Judge  
22  
23  
24  
25  
26