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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Kareem Eli Warling,

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No. CV 12-01396-PHX-FJM (SPL)

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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) and respondents’ answer (doc. 13). We also have before us the Report and Recommendation of the United States Magistrate Judge (doc. 15), and petitioner’s objections (doc. 16).

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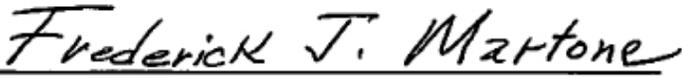
The Report and Recommendation brings to our attention that on December 1, 1993, the undersigned, as Justice of the Arizona Supreme Court, participated in the decision that denied petitioner’s petition for review in State v. Warling, No. CR-93-0306-PR. See Answer (doc. 13-2) Exhibit FF. Having participated as a judge in tens of thousands of cases in state and federal court over the last 28 years, the undersigned has no independent recollection of any case involving the petitioner. Nevertheless, Canon 3(C)(1)(e), of the Code of Conduct for United States Judges, as amended in 2009, requires disqualification where the judge, during prior governmental employment, participated as a judge concerning the proceeding.

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1 Remittal of disqualification is not available under Canon 3(D), for disqualification under
2 Canon 3(C)(1)(e).

3 Accordingly, it is **ORDERED RECUSING** myself under Canon 3(C)(1)(e) and
4 transferring this case to the clerk of court for random reassignment under LRCiv 3.7.

5 DATED this 10th day of September, 2013.

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8 **Frederick J. Martone**
9 **Senior United States District Judge**

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