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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Otis Eugene Bunn,)	No. CV-12-2114-PHX-GMS (LOA)
Petitioner,)	ORDER
vs.)	
Charles L. Ryan, et al.,)	
Respondents.)	

This matter is before the Court on Petitioner’s Requests for Evidentiary Hearing and Oral Argument. (Doc. 17) Respondents have filed an Opposition to Motion for Evidentiary Hearing, and Petitioner has filed a Reply. (Docs. 18, 19)

On October 11, 2013, the undersigned Magistrate Judge issued a Report and Recommendation in this case, recommending Petitioner’s Petition for Writ of Habeas Corpus be denied as untimely because it was not filed within with the applicable statute of limitations period. (Doc. 20) In a separately filed motion, Petitioner requested an evidentiary hearing on his claims. (Doc. 17) Specifically, Petitioner’s motion focuses on his claim in Ground One of the Petition, which alleges a claim of ineffective assistance of counsel based on a conflict of interest. Petitioner seeks to present evidence pertaining to that claim. (*Id.*)

As the Report and Recommendation indicates, this Magistrate Judge did not reach the merits of any of Petitioner’s claims because the record clearly shows the Petition was untimely filed. (Doc. 20) Accordingly, an evidentiary hearing on the merits of Petitioner’s claims is unnecessary. *See Earp v. Ornoski*, 431 F.3d 1158, 1167 (9th Cir. 2005) (a habeas petitioner is

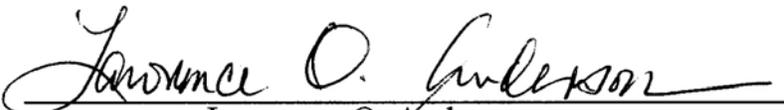
1 not entitled to an evidentiary hearing where his petition fails to raise any colorable claims for
2 relief) The request for an evidentiary hearing will be denied.

3 Likewise, Petitioner’s request for oral argument will be denied. The Court has
4 discretion to grant or deny a request for oral argument. *See* LRCiv. 7.2(f) (“The Court may
5 decide motions without oral argument.”); *see also Mahon v. Credit Bur. of Placer County, Inc.*,
6 171 F.3d 1197, 1200 (9th Cir. 1999); *Spradlin v. Lear Siegler Management Services Co.*, 926
7 F.2d 865, 867 (9th Cir. 1991) (holding that denial of request for oral argument is reviewed for
8 abuse of discretion). Here, in light of the clear record showing the Petition was untimely, the
9 Court finds no basis to hold oral argument on the instant motion.

10 Accordingly,

11 **IT IS ORDERED** that Petitioner’s “Requests for Evidentiary Hearing and Oral
12 Argument,” doc. 17, is **DENIED**.

13 DATED this 17th day of October, 2013.

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16 Lawrence O. Anderson
17 United States Magistrate Judge
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