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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Charles Guy Garten,  
Petitioner,  
v.  
Arizona, State of, et al.,  
Respondents.

No. CV-13-00227-PHX-ROS  
**ORDER**

Before the Court is a report and recommendation from the Magistrate Judge, (Doc. 18), pursuant to 28 U.S.C. § 636(b)(1)(B) and Rule 72(b)(1), Fed. R. Civ. P. No objection to the report and recommendation was filed and the time for doing so has expired. *See* Fed. R. Civ. P. 72(b)(2).

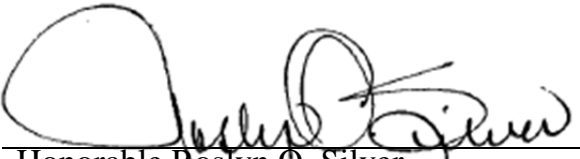
The court accepts the recommended decision of the United States Magistrate Judge within the meaning of Rule 8(b), Rules Governing § 2254 Cases.

Accordingly,

**IT IS ORDERED** the Second Amended Petition for Writ of Habeas Corpus (Doc. 6) is **DENIED**.

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

DATED this 10<sup>th</sup> day of October, 2014.

  
Honorable Roslyn O. Silver  
Senior United States District Judge