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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Curtis Graylin Simmons,
Petitioner,
v.
Charles L. Ryan, et al.,
Respondents.

No. CV-13-00329-PHX-NVW (LOA)

**ORDER
and
DENIAL OF CERTIFICATE OF
APPEALABILITY AND IN FORMA
PAUPERIS STATUS**

Pending before the Court is the Report and Recommendation (“R&R”) of Magistrate Judge Lawrence O. Anderson (Doc. 13) regarding petitioner’s Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1). The R&R recommends that the Petition be denied. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at 8 (citing 28 U.S.C. § 636(b)). Petitioner filed objections on January 23, 2014 (Doc. 15).

The Court has considered the objections and reviewed the Report and Recommendation de novo. *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that the court must make a de novo determination of those portions of the Report and Recommendation to which specific objections are made). The Court agrees with the Magistrate Judge’s determinations, accepts the recommended decision within the meaning of Rule 72(b), Fed. R. Civ. P., and overrules Petitioner’s objections. *See* 28 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate”).

1 IT IS THEREFORE ORDERED that Report and Recommendation of the
2 Magistrate Judge (Doc. 13) is accepted.

3 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying
4 Petitioner's Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc.
5 1). The Clerk shall terminate this action.

6 Having considered the issuance of a Certificate of Appealability from the order
7 denying Petitioner's Petition for a Writ of Habeas Corpus, a Certificate of Appealability
8 and leave to proceed in forma pauperis on appeal are **denied** because dismissal of the
9 Petition is justified by a plain procedural bar.

10 Dated this 12th day of February, 2014.

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13 _____
14 Neil V. Wake
15 United States District Judge
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