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

Richard Albert Burkall, Jr.,
Petitioner,
v.
United States of America,
Respondent.

No. CV-13-01465-PHX-GMS
CR-08-0665-PHX-GMS
ORDER

Pending before the Court are Petitioner's Motion to Vacate/Set Aside/Correct Sentence and United States Magistrate Judge Michelle H. Burns' Report and Recommendation ("R&R"). Docs. 1, 9. The R&R recommends that the Court deny the motion and dismiss with prejudice. Doc. 25 at 20. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R and that failure to file timely objections could be considered a waiver of the right to obtain review of the R&R. *Id.* at 5 (citing 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)).

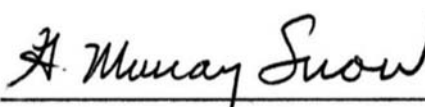
The parties did not file objections, which relieves the Court of its obligation to review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149 (1985) ("[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is not the subject of an objection."); Fed. R. Civ. P. 72(b)(3) ("The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to."). The Court has nonetheless reviewed the R&R and finds that it is well-

1 taken. The Court will accept the R&R and deny the motion and dismiss with prejudice.
2 *See* 28 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in
3 whole or in part, the findings or recommendations made by the magistrate”); Fed. R. Civ.
4 P. 72(b)(3) (“The district judge may accept, reject, or modify the recommended
5 disposition; receive further evidence; or return the matter to the magistrate judge with
6 instructions.”).

7 **IT IS ORDERED:**

- 8 1. Magistrate Judge Burns’ R&R (Doc. 9) is **accepted**.
- 9 2. Petitioner’s Motion to Vacate/Set Aside/Correct Sentence (Doc. 1) is
10 **denied and dismissed with prejudice**.
- 11 3. The Clerk of Court shall **terminate** this action.
- 12 4. Pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, in the
13 event Movant files an appeal, the Court declines to issue a certificate of appealability
14 because reasonable jurists would not find the Court’s procedural ruling debatable. See
15 Slack v. McDaniel, 529 U.S. 473, 484 (2000).

16 Dated this 20th day of November, 2013.

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19 _____
20 G. Murray Snow
21 United States District Judge
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