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## IN THE UNITED STATES DISTRICT COURT

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## FOR THE DISTRICT OF ARIZONA

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Robert Johannes Jonge Vos,

No. CV-13-01891-PHX-DJH

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Petitioner,

**ORDER**

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v.

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Charles L. Ryan, et al.,

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Respondents.

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This matter is before the Court on Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) and the Report and Recommendation ("R&R") issued by United States Magistrate Judge David K. Duncan (Doc. 18). Pursuant to plea agreements, Petitioner pled guilty to and was convicted of one count of sexual exploitation of a minor and one count of attempted sexual exploitation of a minor. (Doc. 18 at 2). He was sentenced to 17 years in prison on the first conviction and lifetime probation on the second. (*Id.*). He raised three grounds for relief in the Petition, including ineffective assistance of counsel, lack of subject matter jurisdiction, and prosecutorial misconduct. (Doc. 18 at 3). After consideration of the issues, Judge Duncan concluded that the Petitioner's claims are procedurally barred because he failed to fairly present them to the Arizona Court of Appeals. (Doc. 18 at 4-6). Accordingly, Judge Duncan recommends the Petition be dismissed with prejudice. (Doc. 18 at 6).

Judge Duncan advised the parties that they had fourteen days to file objections and that the failure to file timely objections "may result in the acceptance of the Report and

1 Recommendation by the district court without further review." (Doc. 18 at 7) (citing  
2 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003) (*en banc*)). The  
3 parties have not filed objections and the time to do so has expired. Absent any  
4 objections, the Court is not required to review the findings and recommendations in the  
5 R&R. *See Thomas v. Arn*, 474 U.S. 140, 149 (1989) (The relevant provision of the  
6 Federal Magistrates Act, 28 U.S.C. § 636(b)(1)(C), "does not on its face require any  
7 review at all . . . of any issue that is not the subject of an objection."); *Reyna-Tapia*, 328  
8 F.3d at 1121 (same); Fed.R.Civ.P. 72(b)(3) ("The district judge must determine de novo  
9 any part of the magistrate judge's disposition that has been properly objected to.").

10 Nonetheless, the Court has reviewed the R&R and agrees with its findings and  
11 recommendations. The Court will, therefore, accept the R&R and deny the Petition. *See*  
12 28 U.S.C. § 636(b)(1)(C) ("A judge of the court may accept, reject, or modify, in whole  
13 or in part, the findings or recommendations made by the magistrate judge.");  
14 Fed.R.Civ.P. 72(b)(3) (same). Accordingly,

15 **IT IS ORDERED** that Magistrate Judge Duncan's R&R (Doc. 18) is **accepted**  
16 and **adopted** as the order of this Court.

17 **IT IS FURTHER ORDERED** that the Petition for Writ of Habeas Corpus  
18 pursuant to 28 U.S.C. § 2254 (Doc. 1) is **denied** and **dismissed with prejudice**.

19 **IT IS FURTHER ORDERED** that pursuant to Rule 11(a) of the Rules Governing  
20 Section 2254 Cases, a Certificate of Appealability and leave to proceed *in forma pauperis*  
21 on appeal are **denied** because dismissal of the Petition is justified by a plain procedural  
22 bar and jurists of reason would not find the procedural ruling debatable.

23 **IT IS FURTHER ORDERED** that the Clerk of Court shall terminate this action  
24 and enter judgment accordingly.

25 Dated this 22nd day of May, 2015.

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28 Honorable Diane J. Humetewa  
United States District Judge