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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

David Del Grande-Leyva,  
Petitioner,  
vs.  
David Gonzalez, United States Marshal for  
the District of Arizona,  
Respondent.

No. CV-13-2351-PHX-SRB (DKD)

**REPORT AND RECOMMENDATION**

TO THE HONORABLE SUSAN R. BOLTON, UNITED STATES DISTRICT JUDGE:

On October 15, 2013, Magistrate Judge Bowman issued a provisional arrest warrant, ordering the arrest of David Del Grande-Leyva pursuant to an extradition agreement between Mexico and the United States. He was detained pursuant to this warrant, and Magistrate Judge Rateau ordered Mr. Del Grande's continued detention pending the extradition hearing scheduled for January 6, 2014. *See* 4:13-mj-05682.

On November 15, 2013, Mr. Del Grande filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. In his Petition, he alleged that (1) his provisional arrest was not appropriate pursuant to the extradition agreement; and (2) there are special circumstances entitling him to release pending further extradition proceedings (Doc. 1). On December 18, 2013, in his criminal case, the government filed a Motion to Dismiss, because the Republic of Mexico had notified the government that the Mexican warrant had been quashed and that Mexico was rescinding their extradition request. On December 19, 2013, Magistrate Judge

1 Velasco granted the government's Motion to Dismiss and released Mr. Del Grande. On  
2 January 3, 2014, Mr. Del Grande, through counsel, filed a Motion to Dismiss the Habeas  
3 Petition, contending that the petition is now moot.

4 **IT IS THEREFORE RECOMMENDED** that David Del Grande-Leyva's Motion  
5 to Dismiss be **granted** (Doc. 13).

6 **IT IS FURTHER RECOMMENDED** that his Petition for Writ of Habeas Corpus  
7 be **dismissed as moot** (Doc. 1).

8 This recommendation is not an order that is immediately appealable to the Ninth  
9 Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of  
10 Appellate Procedure, should not be filed until entry of the district court's judgment. The  
11 parties shall have fourteen days from the date of service of a copy of this recommendation  
12 within which to file specific written objections with the Court. *See*, 28 U.S.C. § 636(b)(1);  
13 Rules 72, 6(a), 6(b), Federal Rules of Civil Procedure. Thereafter, the parties have fourteen  
14 days within which to file a response to the objections. Failure timely to file objections to the  
15 Magistrate Judge's Report and Recommendation may result in the acceptance of the Report  
16 and Recommendation by the district court without further review. *See United States v.*  
17 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003). Failure timely to file objections to any  
18 factual determinations of the Magistrate Judge will be considered a waiver of a party's right  
19 to appellate review of the findings of fact in an order or judgment entered pursuant to the  
20 Magistrate Judge's recommendation. *See* Rule 72, Federal Rules of Civil Procedure.

21 DATED this 7<sup>th</sup> day of January, 2014.

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25 David K. Duncan  
26 United States Magistrate Judge  
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