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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Alfredo Camargo,

No. CV-13-02488-PHX-NVW

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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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Before the court is the Report and Recommendation (“R&R”) of Magistrate Judge James Metcalf (Doc. 38) regarding petitioner’s First Amended Petition for Writ of Habeas Corpus, filed pursuant to 28 U.S.C. § 2254 (Doc. 6). The R&R recommends that a certificate of appealability be issued. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. Respondents filed objections on April 28, 2015. (Doc. 39.)

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The court has considered the objections and reviewed the R&R 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 R&R 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), and overrules Respondents’ 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”).

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1 IT IS THEREFORE ORDERED that the Report and Recommendation of the  
2 Magistrate Judge (Doc. 38) is accepted.

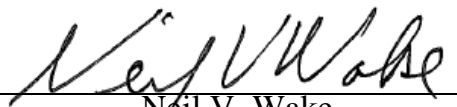
3 IT IS FURTHER ORDERED that the court's March 9, 2015 order (Doc. 26)  
4 temporarily vacating its March 4, 2015 order (Doc. 23) and the Clerk's Judgment (Doc.  
5 24) is vacated.

6 IT IS FURTHER ORDERED that the court's March 4, 2015 order (Doc. 23)  
7 adopting the Magistrate Judge's initial Report and Recommendation (Doc. 19) is  
8 reinstated.

9 IT IS FURTHER ORDERED that the Clerk enter judgment denying and  
10 dismissing Petitioner's First Amended Petition for Writ of Habeas Corpus (Doc. 6).

11 IT IS FURTHER ORDERED that a certificate of appealability is granted on the  
12 following questions: (1) whether Petitioner's federal habeas petition should be considered  
13 timely under 28 U.S.C. § 2244(d), (2) whether Petitioner's Fifth, Sixth, and Fourteenth  
14 Amendment rights were violated by the "constructive denial of the right to counsel," and  
15 (3) whether Petitioner's Fifth, Sixth, and Fourteenth Amendment rights were violated by  
16 his PCR counsel's failure to raise the trial court's constructive denial of Petitioner's right  
17 to effective assistance of counsel. The certificate of appealability shall not certify any  
18 other questions.

19 Dated this 4th day of May, 2015.

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22 Neil V. Wake  
23 United States District Judge  
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