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

Erick David Morales,

Petitioner,

v.

United States of America,

Respondent.

No. CV-14-00068-PHX-GMS

**ORDER**

Pending before the Court are Petitioner’s Motion to Vacate, Set Aside or Correct Sentence and United States Magistrate Judge James Metcalf’s Report and Recommendation (“R&R”). Docs. 1, 17. The R&R recommends that the Court dismiss ground two of the motion with prejudice and deny the remaining motion. Doc. 17 at 15. 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 16 (citing Fed. R. Civ. P. 72(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 dismiss with prejudice ground two of the  
2 motion and deny the remaining motion. *See* 28 U.S.C. § 636(b)(1) (stating that the  
3 district court “may accept, reject, or modify, in whole or in part, the findings or  
4 recommendations made by the magistrate”); Fed. R. Civ. P. 72(b)(3) (“The district judge  
5 may accept, reject, or modify the recommended disposition; receive further evidence; or  
6 return the matter to the magistrate judge with instructions.”).

7 **IT IS ORDERED:**

- 8 1. Magistrate Judge Metcalf’s R&R (Doc. 17) is **accepted**.
- 9 2. Petitioner’s Ground Two of his Motion to Vacate, Set Aside or Correct  
10 Sentence (Doc. 1) is **dismissed with prejudice** and the remainder of the Motion is  
11 **denied**.
- 12 3. The Clerk of Court shall **terminate** this action and enter judgment  
13 accordingly.
- 14 4. Pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, in the  
15 event Petitioner files an appeal, the Court declines to issue a certificate of appealability  
16 because reasonable jurists would not find the Court’s procedural ruling debatable. *See*  
17 *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

18 Dated this 20th day of February, 2015.

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21 Honorable G. Murray Snow  
22 United States District Judge  
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