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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Kevin Lee Weber,

Petitioner,

v.

Charles L. Ryan, et al.,

Respondents.

No. CV-14-00317-PHX-NVW (DKD)

**ORDER**

Pending before the court is the Report and Recommendation (“R&R”) of Magistrate Judge David K. Duncan (Doc. 17) issued April 15, 2015, regarding petitioner’s Petition and Amended Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Docs. 1, 8). The R&R recommends that the Petition and Amended Petition be denied and dismissed with prejudice. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at 6 (citing 28 U.S.C. § 636(b)(1); Rules 72, 6(a), 6(b), Federal Rules of Civil Procedure). No objections were filed.

Because the parties did not file objections, the court need not review any of the Magistrate Judge’s determinations on dispositive matters. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); *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.”). The absence of a timely objection also means that error may not be assigned on appeal to any defect in the

1 rulings of the Magistrate Judge on any non-dispositive matters. Fed. R. Civ. P. 72(a) (“A  
2 party may serve and file objections to the order within 14 days after being served with a  
3 copy [of the magistrate’s order]. A party may not assign as error a defect in the order not  
4 timely objected to.”); *Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir.  
5 1996); *Phillips v. GMC*, 289 F.3d 1117, 1120-21 (9th Cir. 2002).

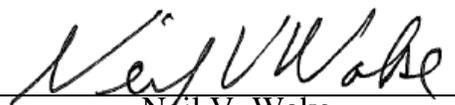
6 Notwithstanding the absence of an objection, the court has reviewed the R&R and  
7 finds that it is well taken. The court will accept the R&R and dismiss the Petition and  
8 Amended Petition. *See* 28 U.S.C. § 636(b)(1) (stating that the district court “may accept,  
9 reject, or modify, in whole or in part, the findings or recommendations made by the  
10 magistrate”).

11 IT IS THEREFORE ORDERED that Report and Recommendation of the  
12 Magistrate Judge (Doc. 17) is accepted.

13 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying  
14 and dismissing petitioner's Petition and Amended Petition for Writ of Habeas Corpus  
15 filed pursuant to 28 U.S.C. § 2254 (Docs. 1, 8) with prejudice. The Clerk shall terminate  
16 this action.

17 Having considered the issuance of a Certificate of Appealability from the order  
18 denying Petitioner’s Petition and Amended Petition for a Writ of Habeas Corpus, the  
19 Court FINDS: Certificate of Appealability and leave to proceed in forma pauperis on  
20 appeal are **denied** because dismissal of the petition and amended petition are justified by  
21 a plain procedural bar and jurists of reason would not find the ruling debatable.

22 Dated this 15th day of May, 2015.

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26 Neil V. Wake  
27 United States District Judge  
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