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**NOT FOR PUBLICATION**

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

9 Shidan Dahnad,

10                   Petitioner,

11 v.

12 Charles L Ryan, et al.,

13                   Respondents.

No. CV-14-01294-PHX-DJH

**ORDER**

16           Pending before the Court is Petitioner's Petition for Writ of Habeas Corpus  
17 pursuant to 28 U.S.C. § 2254 (Doc. 1) to which Respondents filed an Answer (Doc. 9).  
18 Following a thorough and comprehensive analysis, and what was obviously a painstaking  
19 review of a voluminous record, Magistrate Judge Fine recommended denial of and  
20 dismissal with prejudice of the Petition. (Doc. 14). Petitioner filed timely objections  
21 (Doc. 15). Respondents filed none.

22 **I. R&R**

23           The R & R accurately identifies the seven claims which the Petition raises. (Doc.  
24 14 at 5:24-6:9. In their answer, Respondents took the position that “some portions” of  
25 Petitioner’s ineffective assistance of trial counsel (“IAC”) claim were procedurally  
26 barred. (*Id.* at 6:10). Respondents also took the position that Petitioner’s claims of (1)  
27 bias and partiality by the trial judge and (2) that the “cumulative effect of Grounds One  
28 through Six violated [his] right to due process[]” were procedurally barred. (*Id.* at 6: 8-

1 9). As to the Petition’s remaining claims, Respondents argued that they were “without  
2 merit.” (Id. at 6:11) (citation omitted).

3 Before addressing the Petition’s claims, Magistrate Judge Fine considered “two  
4 additional IAC claims that [Petitioner] openly admit[ted] [were] not . . . presented to the  
5 state courts.” (Doc. 14 at 6:15-16) (citation omitted). After carefully analyzing these two  
6 claims, the Magistrate Judge found that neither “present[ed] a substantial claim of [IAC]  
7 which would permit . . . [an] exception to the procedural bar[.]” under *Martinez v. Ryan*,  
8 566 U.S. 1 (2012). (*Id.* at 10:25-27; *see also id.* at 8:25-27). As to the second new IAC  
9 claim, the Magistrate Judge further explained that it was without merit.

10 Then, turning to Petitioner’s claims of judicial bias, the Magistrate Judge found  
11 that such claim was procedurally barred, and hence not properly subject to review in the  
12 habeas court. The Magistrate Judge further found that this particular claim was subject  
13 to an implied procedural bar and that Petitioner did “not demonstrate[] either cause for  
14 the default and actual prejudice to excuse the default, or a miscarriage of justice.” (Doc.  
15 14 at 11:16-17). Similarly, as to Petitioner’s claim regarding the cumulative effect of all  
16 claims raised, the Magistrate Judge found that Petitioner did not contend that such claim  
17 was exhausted and it was not. Such claim also was subject to an implied procedural bar,  
18 for the same reasons as was his Petitioner’s judicial bias claim. (*See id.* at 11:24-28).

19 With respect to Petitioner’s exhausted claims, ten in all, including his various IAC  
20 theories, the Magistrate Judge again carefully examined each and found them all to be  
21 without merit for one reason or another. (Doc. 14 at 12-28). In light of the foregoing, the  
22 Magistrate Judge found that Petitioner was not entitled to habeas corpus relief, and  
23 recommended denial of his Petition and dismissal with prejudice. The Magistrate Judge  
24 further recommended denial of a Certificate of Appealability because “dismissal of the  
25 Petition is justified by a plain procedural bar and jurists of reason would not find the  
26 ruling debatable.” (*Id.* at 29:1-2). The parties were advised by the Magistrate Judge that  
27 they had “fourteen (14) days from the date of service of a copy of [the R&R] within  
28 which to file *specific* written objections with the Court.” (Id. at 29:6-8) (citing 28 U.S.C.  
§ 636(b)(1); Rules 72, 6(a), 6(b), Federal Rules of Civil Procedure) (emphasis added).

1       **II.     Petitioner's Objections**

2             Petitioner timely filed his objections, broadly asserting that he is “entitled as a  
3 matter of right to de novo review” and “an evidentiary hearing” in this Court. (*See, e.g.*,  
4 Doc. 15 at 1:24-25; 2:21-22 (citation omitted). Petitioner uniformly objects to the  
5 Magistrate Judge’s “factual findings and legal conclusions” which pertain to the  
6 following four claims. (*See, e.g., id.* at 2:18-19). The first claim arises from Petitioner’s  
7 waiver of his constitutional right to a jury trial. The second is Petitioner’s IAC claim  
8 predicated upon eight different theories. The third is Petitioner’s claim that his  
9 “conviction must be reversed because [he] was prohibited from presenting an affirmative  
10 defense and character evidence.” (*Id.* at 4:4-6). Petitioner’s fourth claim is that  
11 “[i]nadmissible evidence was admitted at trial in violation of Rule 404(b) and (c).” (*Id.* at  
12 4:13-14). Not surprisingly, Petitioner also objects to the recommendations that his  
13 Petition be denied and dismissed with prejudice and that he be denied a Certificate of  
14 Appealability.

15       **III.    Standard of Review**

16             This Court must “make a de novo determination of those portions of the report or  
17 specified proposed findings or recommendations to which” a Petitioner objects. 28  
18 U.S.C. § 636(b)(1)(C); *see also* Fed.R.Civ.P. 72(b)(3) (“The district judge must  
19 determine de novo any part of the magistrate judge's disposition that has been properly  
20 objected to.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (same).  
21 Further, this Court “may accept, reject, or modify, in whole or in part, the findings or  
22 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C); Fed.R.Civ.P.  
23 72(b)(3). At the same time, however, the relevant provision of the Federal Magistrates  
24 Act, 28 U.S.C. § 636(b)(1)(C), “does not on its face require any review at all. . .of any  
25 issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1989)  
26 (emphasis added); *see also* *Wang v. Masaitis*, 416 F.3d 992, 1000 n. 13 (9th Cir. 2005)  
27 (“Of course, de novo review of a R & R is only required when an objection is made to the  
28 R & R, [*Reyna–Tapia*,] 328 F.3d [at] 1121. . . (“Neither the Constitution nor the [Federal  
Magistrates Act] requires a district judge to review, de novo, findings and

1 recommendations that the parties themselves accept as correct”)[.]”). Likewise, it is well-  
2 settled that ““failure to object to a magistrate judge's factual findings waives the right to  
3 challenge those findings [.]” *Bastidas v. Chappell*, 791 F.3d 1155, 1159 (9th Cir. 2015)  
4 (quoting *Miranda v. Anchondo*, 684 F.3d 844, 848 (9th Cir. 2012) (internal quotation  
5 marks omitted) (footnote omitted)), as Magistrate Judge Fine advised the parties herein.  
6 (Doc. 14 at 29:13-15) (citation omitted). Finally, “[a]lthough the Ninth Circuit has not yet  
7 ruled on the matter, other circuits and district courts within the Ninth Circuit have held  
8 when a petitioner raises a general objection to an R & R, rather than specific objections,  
9 the Court is relieved of any obligation to review it.” *Martin v. Ryan*, 2014 WL 5432133,  
10 at \*2 (D. Ariz. 2014) (citing *See, e.g., Warling v. Ryan*, 2013 WL 5276367, at \*2 (D.  
11 Ariz. 2013) (“[A] general objection ‘has the same effect as would a failure to object.’ ”));  
12 *Gutierrez v. Flannican*, 2006 WL 2816599 (D. Ariz. 2006) (citing *Goney v. Clark*, 749  
13 F.2d 5, 7 (3d Cir. 1984); *Lockert v. Faulkner*, 843 F.2d 1015, 1019 (7th Cir. 1988);  
14 *Howard v. Sec. of Health and Human Servs.*, 932 F.2d 505, 509 (6th Cir. 1991); *United*  
15 *States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996)).

#### 16 **IV. Discussion**

17 Petitioner did file timely objections, but he did not specifically object to any of  
18 the information included in the R&R's background section. Thus, consistent with 28  
19 U.S.C. § 636(b)(1)(C), and the case law construing it, the Court is not reviewing that  
20 particular section at all. For a different reason, the Court finds that it has no independent  
21 obligation to engage in a de novo review of those portions of the R & R to which  
22 Petitioner did object. Petitioner has not triggered de novo review because, as is readily  
23 apparent, his objections lack the requisite specificity. Petitioner’s general objection to the  
24 unspecified factual findings and legal conclusions by the Magistrate Judge does not  
25 provide this Court for any meaningful basis for review because Petitioner has not  
26 articulated why he objects to these findings and conclusions. Further, where, as here,  
27 Petitioner’s objections point to not a single flaw in the R & R’s analysis, they have the  
28 same effect as would a complete failure to object. Indeed, if this Court were to undertake  
de novo review of Petitioner's general objections, it would defeat the “obvious purpose”

1 of the specific objection requirement, which “is judicial economy—to permit magistrate  
2 judges to hear and resolve matters not objectionable to the parties.” *See Warling*, 2013  
3 WL 5276367, at \*2 (citing *Thomas*, 474 U.S. at 149; *Reyna–Tapia*, 328 F.3d at 1121).  
4 “Because de novo review of an entire R & R would defeat the efficiencies intended by  
5 Congress, a general objection “has the same effect as would a failure to object.” *See id.*  
6 (citing *Howard*, 932 F.2d at 509; *Haley v. Stewart*, 2006 WL 1980649, at \*2 (D. Ariz.  
7 2006)). In light of the foregoing, the Court has no obligation to review Petitioner's  
8 general objections to the R & R. *See id.* at \*2 (citing *Thomas*, 474 U.S. 149).

9 Although the Court could simply accept the R & R based upon this case law, it did  
10 not. The Court reviewed the R & R, some of the many various exhibits referenced  
11 therein, and the applicable law. After so doing, the Court is left with the firm conviction  
12 that Magistrate Judge Fine’s recommendations are well taken and are supported by a  
13 correct application of the law throughout.

#### 14 **V. Conclusion**

15 Accordingly, **IT IS ORDERED** that Magistrate Judge Fine's Report and  
16 Recommendation (Doc. 14) is **ACCEPTED** 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**  
19 **PREJUDICE**.

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

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

26 **Dated** this 18th day of May, 2017.

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Honorable Diane J. Humetewa  
United States District Judge