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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Demetrius Antwan Wilson,  
10 Plaintiff,

11 v.

12 Joseph M Arpaio, et al.,  
13 Defendants.  
14

No. CV-14-01613-PHX-JAT (DMF)

**ORDER**

15  
16 Pending before the Court is Plaintiff Demetrius Wilson's December 19, 2016  
17 appeal from a pretrial order of Magistrate Judge Deborah M. Fine. (Doc. 238). The Court  
18 now rules on the motion.

19 **I. Background**

20 For the purposes of this appeal, the Court will not recite the underlying facts of the  
21 case. Instead, it is sufficient to note that Plaintiff filed a motion for summary judgment in  
22 this case on October 26, 2016. (Doc. 230). On October 27, Plaintiff filed a request for  
23 leave to amend his summary judgment motion. (Doc. 232). Defendants filed a motion to  
24 strike Plaintiff's request for leave to amend, arguing that it was untimely and improper  
25 under the Federal Rules of Civil Procedure. (Doc. 233). Magistrate Judge Fine granted  
26 Defendant's motion to strike, finding that Plaintiff's request violated the local rules of  
27 civil procedure because it did not clearly outline the changes Plaintiff sought to make.  
28 (Doc. 237). Plaintiff then filed this appeal.

1     **II.     Analysis**

2             When a magistrate judge issues a pretrial order, this Court may review the order  
3     “where it has been shown that the magistrate’s order is clearly erroneous or contrary to  
4     law.” Title 28 U.S.C. § 636(b)(1)(A) (2012); *Barten v. State Farm Mut. Auto. Ins. Co.*,  
5     No. CZV-12-0399-TUC-CKJ, 2014 U.S. Dist. LEXIS 133569, at \*10 (D. Ariz. Sept. 23,  
6     2014) (quoting *Doe v. Kamehameha Schools/Bernice Pauahi Bishop Estate*, 596 F.3d  
7     1036, 1041 (9th Cir. 2010)). The Court will overturn a Magistrate Judge’s decision only  
8     if it is the result of “clear error.” *Maisonville v. F2 America, Inc.*, 902 F.2d 746, 747 (9th  
9     Cir. 1990) (citations omitted). Under this standard of review, the Magistrate Judge’s  
10    decision is “not subject to de novo determination,” and the Court “may not simply  
11    substitute its judgment for that of the deciding court.” *Grimes v. City and Cnty. of San*  
12    *Francisco*, 951 F.2d 236, 241 (9th Cir. 1991). In order to find clear error, the Court must  
13    have a “definite and firm conviction that a mistake has been committed.” *Easley v.*  
14    *Cromartie*, 532 U.S. 234, 242 (2001).

15             Plaintiff has shown no clear error here. For example, Plaintiff’s appeal claims that  
16    “[D]efendant(s) never filed such motion to strike.” (Doc. 238 at 1). This is an incorrect  
17    statement. Defendants filed a motion to strike Plaintiff’s request for leave to amend his  
18    summary judgment motion on November 14, 2016, and a copy of the motion to strike  
19    was mailed to Plaintiff on the same day. (Doc. 233 at 3).

20             The Court also notes that Plaintiff has not shown that he has been prejudiced by  
21    the order granting Defendants’ motion to strike. After a brief review of Plaintiff’s motion  
22    for summary judgment and his proposed amended motion for summary judgment, this  
23    Court does not find that the two documents are significantly different. Moreover, Judge  
24    Fine’s order struck only Plaintiff’s request for leave to amend; it did not strike his initial  
25    motion for summary judgment, and Plaintiff will still be entitled to a decision on that  
26    motion in due course.<sup>1</sup>

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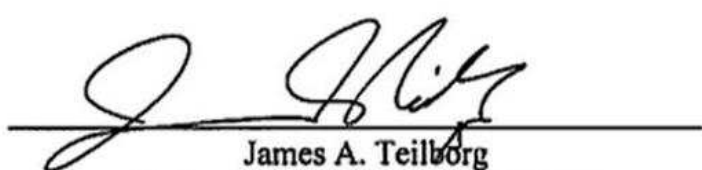
27             <sup>1</sup> Plaintiff’s request for final judgment under Federal Rule of Civil Procedure  
28    (“Rule”) 54(c) is also denied. Rule 54(c) does not empower the Court to enter a final  
   judgment, but rather defines what relief the Court may grant in a final judgment when

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Accordingly,

**IT IS ORDERED** that Plaintiff's appeal (Doc. 238) is **DENIED**, and the Magistrate Judge's Order (Doc. 237) is **AFFIRMED**.

Dated this 27th day of December, 2016.



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James A. Teilborg  
Senior United States District Judge

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one is appropriate.