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2 NOT FOR PUBLICATION
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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Jorge Hernandez-Roque,

10 Petitioner,

11 v.

12 Charles L. Ryan, et al.,

13 Respondents.
14

No. CV-14-01814-PHX-DJH

ORDER

15 This matter is before the Court on *pro se* Petitioner's Petition for Writ of Habeas
16 Corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) and the Report and Recommendation
17 ("R&R") (Doc. 18) of United States Magistrate Judge Eileen S. Willett, filed on May 27,
18 2016. The Petitioner asserts four grounds for relief based upon the alleged ineffective
19 assistance of his trial counsel. After a thorough and sound analysis, Judge Willett found
20 all four grounds were meritless. Judge Willett thus recommends denial of the Petition
21 and dismissal with prejudice.

22 In so recommending, Judge Willett explicitly advised the parties that they had
23 "fourteen days from the date of service of a copy of" the R&R "within which to file
24 specific written objections with the Court." (Doc. 18 at 15:25-26) (citations omitted).
25 Judge Willett further explicitly advised that "[f]ailure to file timely objections to the"
26 R&R "may result in the acceptance of the [R&R] by the District Court without further
27 review." (*Id.* at 15:28-16:1-2). Judge Willett was equally explicit that "[f]ailure to file
28 timely objections to any factual determination of the Magistrate Judge may be considered

1 a waiver of a party’s right to appellate review of the findings of fact in an order or
2 judgment entered pursuant to the” R&R. (*Id.* at 16:2-5) (citations omitted).

3 In accordance with the foregoing, the parties had until June 13, 2016 by which to
4 timely file objections to the R&R. The parties did not do so. Absent any timely
5 objections, the Court is not required to review the findings and recommendations in the
6 R&R. *See Thomas v. Arn*, 474 U.S. 140, 149 (1989) (The relevant provision of the
7 Federal Magistrates Act, 28 U.S.C. § 636(b)(1)(C), “does not on its face require any
8 review at all . . . of any issue that is not the subject of an objection.”); *Reyna-Tapia*, 328
9 F.3d at 1121 (same); Fed.R.Civ.P. 72(b)(3) (“The district judge must determine de novo
10 any part of the magistrate judge’s disposition that has been properly objected to.”).
11 Nonetheless, the Court has reviewed the R&R and agrees with its findings and
12 recommendations. The Court will, therefore, accept the R&R, deny the Petition and
13 dismiss this matter with prejudice. *See* 28 U.S.C. § 636(b)(1)(C) (“A judge of the court
14 may accept, reject, or modify, in whole or in part, the findings or recommendations made
15 by the magistrate judge.”); Fed.R.Civ.P. 72(b)(3) (same).

16 Accordingly,

17 **IT IS ORDERED** that Magistrate Judge Willett’s R&R (Doc. 18) is **accepted**
18 **and adopted** as an Order of this Court.

19 **IT IS FURTHER ORDERED** that the Petition for Habeas Corpus pursuant to 28
20 U.S.C. § 2254 (Doc. 1) is **denied** and **dismissed** with prejudice.

21 **IT IS FURTHER ORDERED** that pursuant to Rule 11(a) of the Rules Governing
22 Section 2254 Cases, a Certificate of Appealability and leave to proceed *in forma pauperis*
23 on appeal are **DENIED** because dismissal of the Petition is justified, in part, because
24 reasonable jurists could not find that the Court’s determination that Petitioner is not
25 entitled to relief debatable, wrong, or deserving of encouragement to proceed further.
26 *See Miller-El v. Cockrell*, 537 U.S. 322, 326 (2003). Petitioner also has not made the
27 required substantial showing of the denial of a constitutional right. *See id.* (citing 28
28 U.S.C. § 2253(c)(2)).

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

Dated this 14th day of June, 2016.



Honorable Diane J. Humetewa
United States District Judge