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

Harold Eugene Markland,
Petitioner,
v.
Charles L Ryan, et al.,
Respondents.

No. CV-14-02563-PHX-SMM
ORDER

Pending before the Court is Petitioner’s Petition for Writ of Habeas Corpus. (Doc. 1.) The matter was referred to Magistrate Judge Deborah M. Fine for a Report and Recommendation, who filed a Report and Recommendation with this Court recommending that the petition be denied and dismissed with prejudice. (Doc. 17.) Petitioner then filed a reply to the Report and Recommendation (entitled “Reply to the Report and Recommendation ‘Evidentiary Hearing Requested w/ Newly Discovered Evidence Used During Trial as Exhibit 30 Withheld from Jury’”), Respondents responded, and Petitioner submitted another reply (“second reply”). (Docs. 25-27.) For the reasons that follow, the Court will adopt the Report and Recommendation and deny Petitioner’s Petition for Writ of Habeas Corpus.

STANDARD OF REVIEW

When reviewing a Magistrate Judge’s Report and Recommendation, this Court “shall make a de novo determination of those portions of the report...to which objection is made,” and “may accept, reject, or modify, in whole or in part, the findings or

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1 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C); see also
2 Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991) (citing Britt v. Simi Valley
3 Unified Sch. Dist., 708 F.2d 452, 454 (9th Cir. 1983)).

4 Rule 72(b)(3) requires a district judge to review de novo those portions of the
5 Report and Recommendation that have been “properly objected to.” Fed. R. Civ. P.
6 72(b)(3) (emphasis added). A proper objection requires “specific written objections to the
7 proposed findings and recommendations.” Fed. R. Civ. P. 72(b)(2) (emphasis added). An
8 ineffective general objection has the same effect as a failure to object. Warling v. Ryan,
9 No. CV-12-1396, 2013 WL 5276367, at *2 (D. Ariz. Sept. 19, 2013) (further citations
10 omitted). Failure to object to a Magistrate Judge’s recommendation relieves the Court of
11 conducting de novo review of the Magistrate Judge’s factual findings and waives all
12 objections to those findings on appeal. See Turner v. Duncan, 158 F.3d 449, 455 (9th Cir.
13 1998).

14 **DISCUSSION¹**

15 The Magistrate Judge filed a thorough thirty page Report and Recommendation
16 (“R&R”) recommending denial of habeas relief for Petitioner’s Petition for Writ of
17 Habeas Corpus. (Doc. 17.) Petitioner’s reply appears to contain four objections to the
18 R&R. (Doc. 25.)

19 Respondents argue that Petitioner’s reply is improper because it does not point to
20 any specific flaws in the Magistrate Judge’s analysis in the R&R, in violation of Fed. R.
21 Civ. P. 72(b)(2). (Doc. 26 at 2.) Respondents further argue that this failure has the same
22 effect as a failure to object, i.e., that the Court is not required to conduct a review of the
23 R&R before adopting it. (Id., citing cases.) Petitioner does not respond to this argument
24 in his second reply. (Doc. 27.)

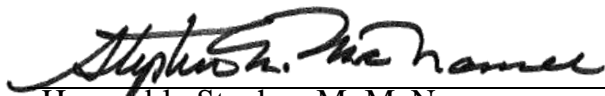
25 The Court concurs with Respondents. Petitioner’s purported objections are
26 ineffective general objections. Therefore, the Court is under no obligation to review

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28 ¹ The factual and procedural history of this case is set forth in the Magistrate
Judge’s Report and Recommendation. (Doc. 17.)

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IT IS FURTHER ORDERED denying a Certificate of Appealability and leave to proceed in forma pauperis on appeal because (1) Petitioner has not made a substantial showing of the denial of a constitutional right and (2) the dismissal is justified by a plain procedural bar and jurists of reason would not find the procedural ruling debatable.

Dated this 19th day of March, 2018.


Honorable Stephen M. McNamee
Senior United States District Judge