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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Juan Jose Castillo-Rodriguez,
Petitioner,
vs.
United States of America,
Respondent.

No. CV-14-2808-PHX-NVW (DKD)
CR-13-0254-PHX-NVW

ORDER

Pending before the court is the Amended Report and Recommendation (“R&R”) of Magistrate Judge David K. Duncan (Doc. 13) regarding Petitioner’s Amended Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 (Doc. 4). The R&R recommends that the Motion be denied. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at 4 (citing Rule 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 rulings of the Magistrate Judge on any non-dispositive matters. Fed. R. Civ. P. 72(a) (“A party may serve and file objections to the order within 14 days after being served with a

1 copy [of the magistrate’s order]. A party may not assign as error a defect in the order not
2 timely objected to.”); *Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir.
3 1996); *Phillips v. GMC*, 289 F.3d 1117, 1120–21 (9th Cir. 2002).

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

9 IT IS THEREFORE ORDERED that Amended Report and Recommendation of
10 the Magistrate Judge (Doc.13) is accepted.

11 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying
12 Petitioner’s Amended Motion to Vacate, Set Aside or Correct Sentence pursuant to 28
13 U.S.C. § 2255 (Doc. 4). The Clerk shall terminate this action.

14 Having considered the issuance of a Certificate of Appealability from the order
15 denying Petitioner’s Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct
16 Sentence by Person in Federal Custody, the Court FINDS: that a Certificate of
17 Appealability and leave to proceed *in forma pauperis* is DENIED because Petitioner has
18 not made a substantial showing of the denial of a constitutional right. *See* Rule 11(a),
19 Rules Governing Section 2255 Cases in the United States District Courts; 28 U.S.C. §
20 2253(c)(3).

21 Dated this 18th day of September, 2015.

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25 Neil V. Wake
26 United States District Judge
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