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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Donald Lee Cook, Jr.,
Petitioner,
v.
Charles L. Ryan, et al.,
Respondents.

No. CV-15-00013-PHX-NVW (JZB)

**ORDER
and
DENIAL OF CERTIFICATE OF
APPEALABILITY AND IN FORMA
PAUPERIS STATUS**

Pending before the Court is the Report and Recommendation (“R&R”) of Magistrate Judge John Z. Boyle (Doc. 25) regarding petitioner’s Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1). The R&R recommends that the Petition be denied and dismissed with prejudice. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at 14 (citing 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(b) and 72). Petitioner filed objections on December 10, 2015 (Doc. 26).

The Court has considered the objections and reviewed the Report and Recommendation de novo. *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that the court must make a de novo determination of those portions of the Report and Recommendation to which specific objections are made). The Court agrees with the Magistrate Judge’s determinations, accepts the recommended decision within the meaning of Rule 72(b), Fed. R. Civ. P., and overrules Petitioner’s objections. *See* 28

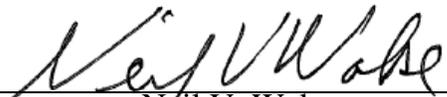
1 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole
2 or in part, the findings or recommendations made by the magistrate”).

3 IT IS THEREFORE ORDERED that the Report and Recommendation of the
4 Magistrate Judge (Doc.25) is accepted.

5 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying
6 and dismissing Petitioner’s Petition for Writ of Habeas Corpus filed pursuant to 28
7 U.S.C. § 2254 (Doc. 1) with prejudice. The Clerk shall terminate this action.

8 Having considered the issuance of a Certificate of Appealability from the order
9 denying Petitioner’s Petition for a Writ of Habeas Corpus, a Certificate of Appealability
10 and leave to proceed in forma pauperis on appeal are denied because dismissal of the
11 Petition is justified by a plain procedural bar and jurists of reason would not find the
12 procedural ruling debatable.

13 Dated this 11th day of December, 2015.

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17 Neil V. Wake
18 United States District Judge
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