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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

William Elvis Holland,
Petitioner,
vs.
Charles L. Ryan, et al.,
Respondent.

No. CV-15-00361-PHX-PGR (DKD)

ORDER

Pending before the Court is Magistrate Judge Duncan’s Report and Recommendation, filed on December 16, 2015. After the petitioner’s copy of the Report and Recommendation was returned to the Court as undeliverable, the Court required the respondents to inform the Court of the petitioner’s current location, notwithstanding the petitioner’s failure to do so as required, because it appeared that the petitioner had been recently moved to a different Department of Corrections facility. Having received that new address from the respondents, the Court had the Clerk of the Court mail another copy of the Report and Recommendation to the petitioner, which the Clerk did on March 1, 2016. That order, which was not returned to the Court as undeliverable, gave the petitioner a new deadline of April 4, 2016 in which to file his objections to the Report and Recommendation. To date, the

1 petitioner has not responded to the Report and Recommendation in any manner.

2 Having reviewed the Report and Recommendation *de novo* notwithstanding
3 that no objection to it has been filed any party, the Court finds that the Magistrate
4 Judge correctly determined that the petitioner's Amended Petition for a Writ of
5 Habeas Corpus should be dismissed with prejudice.

6 First, the Court agrees with the Magistrate Judge that the petitioner's claims
7 referring to the Alaska testimony, the coached testimony, and the untimely witness
8 testimony are all procedurally defaulted and that the petitioner has failed to show any
9 cause or actual prejudice to excuse the defaults, nor has he presented any evidence
10 showing that a miscarriage of justice would result from the Court's decision not to
11 review the merits of those claims.

12 Second, the Court agrees with the Magistrate Judge that the petitioner's two
13 claims of ineffective assistance of counsel are meritless. Therefore,

14 IT IS ORDERED that the Magistrate Judge's Report and Recommendation
15 (Doc. 11) is accepted and adopted by the Court.

16 IT IS FURTHER ORDERED that the petitioner's First Amended Petition Under
17 28 U.S.C. § 2254 for a Writ of Habeas Corpus by a Person in State Custody (Doc.5)
18 is denied and that this action is dismissed with prejudice.

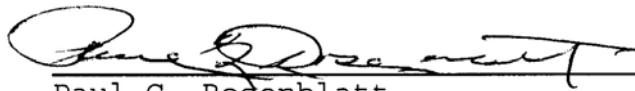
19 IT IS FURTHER ORDERED that no certificate of appealability shall be issued
20 and that the petitioner is not entitled to appeal *in forma pauperis* because dismissal
21 of the amended petition is justified by a plain procedural bar and reasonable jurists
22 would not find the procedural ruling debatable, and because the petitioner has not
23 made a substantial showing of the denial of a constitutional right.

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1 IT IS FURTHER ORDERED that the Clerk of the Court shall enter judgment
2 accordingly.

3 DATED this 16th day of May, 2016.

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6 Paul G. Rosenblatt
United States District Judge

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