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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Tommie Lee Henderson,

No. CV-15-00592-PHX-GMS

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Petitioner,

ORDER

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v.

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Charles L. Ryan, et al.,

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Respondents.

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Pending before the Court are Petitioner's Petition for Writ of Habeas Corpus and United States Magistrate Judge James F. Metcalf's Report and Recommendation ("R&R"). Docs. 1, 31. The R&R recommends that the Court dismiss the Petition without prejudice. Doc. 31 at 18. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R and that failure to file timely objections could be considered a waiver of the right to obtain review of the R&R. *Id.* at 18 (citing Fed. R. Civ. P. 72(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)).

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The parties did not file objections, which relieves the Court of its obligation to review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *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."); Fed. R. Civ. P. 72(b)(3) ("The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to."). The Court has nonetheless reviewed the R&R and finds that it is well-taken. The Court will accept the R&R and dismiss the Complaint without prejudice. *See*

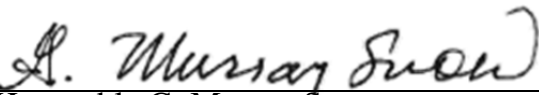
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1 28 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in
2 whole or in part, the findings or recommendations made by the magistrate”); Fed. R. Civ.
3 P. 72(b)(3) (“The district judge may accept, reject, or modify the recommended
4 disposition; receive further evidence; or return the matter to the magistrate judge with
5 instructions.”).

6 **IT IS ORDERED:**

- 7 1. Magistrate Judge Metcalf’s R&R (Doc. 31) is **accepted**.
- 8 2. Petitioner’s Petition for Writ of Habeas Corpus (Doc. 1) is **dismissed**
9 **without prejudice**.
- 10 3. The Clerk of Court shall **terminate** this action.
- 11 4. Pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, in the
12 event Petitioner files an appeal, the Court declines to issue a certificate of appealability
13 because reasonable jurists would not find the Court’s procedural ruling debatable. *See*
14 *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

15 Dated this 13th day of November, 2015.

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18 Honorable G. Murray Snow
19 United States District Judge
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