

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel Contreras-Galdean,
Petitioner,
v.
Charles L. Ryan, et al;
Respondents.

No. CV-15-00662-PHX-NVW (MHB)

**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 Michelle H. Burns (Doc. 20) 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 15 (citing 28 U.S.C. § 636(b)(1); Rules 72, 6(a), 6(b), Federal Rules of Civil Procedure. Petitioner filed objections on February 22, 2016 (Doc. 21).

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

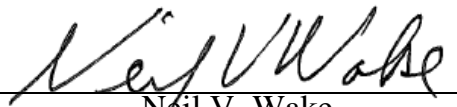
1 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole
2 or in part, the findings or recommendations made by the magistrate”).

3 IT IS THEREFORE ORDERED that Report and Recommendation of the
4 Magistrate Judge (Doc. 20) is accepted.

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

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

13 Dated this 25th day of February, 2016.

14
15 
16 _____
17 Neil V. Wake
18 United States District Judge
19
20
21
22
23
24
25
26
27
28