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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Gregory Keith Jones,
Petitioner,
v.
Charles L. Ryan; Attorney General of the
State of Arizona,
Respondents.

No. CV-15-00883-PHX-NVW (JFM)

**ORDER
and
DENIAL OF CERTIFICATE OF
APPEALABILITY**

Pending before the Court is the Report and Recommendation (“R&R”) of Magistrate Judge James F. Metcalf (Doc. 15) 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 73 (citing Rule 72(b), Federal Rules of Civil Procedure; *See also* Rule 8(b), Rules Governing Section 2254 Proceedings.) Petitioner filed objections on April 5, 2016 (Doc. 17).

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. 15) 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, IT IS ORDERED that a
10 Certificate of Appealability is denied because:

11 (A) Petitioner has procedurally defaulted on: (1) Ground 2(b) (ineffectiveness
12 re Brady claim); (2) the portion of Ground 3(b) (ineffectiveness re prejudicial evidence
13 on dismissed count) which relates to trial counsel; (3) Ground 4(a) (ineffectiveness re
14 plea agreement); (4) Ground 4(d) (ineffectiveness re testimonial objections); and (5)
15 Ground 4(g) (ineffectiveness re appeal on motion in limine). Petitioner was procedurally
16 barred on independent and adequate state grounds from asserting: (1) Ground 1(a)
17 (privacy); and (2) Ground 2(a) (Brady claim). Petitioner has failed to show cause and
18 prejudice or actual innocence to avoid the effects of his procedural defaults and
19 procedural bars;

20 (B) Petitioner has failed to show a substantial constitutional question on: (1)
21 Grounds 1(b) (Franks claim); (2) Ground 3(a) (prejudicial evidence re dismissed count);
22 (3) the portion of Ground 3(b) (ineffectiveness re prejudicial evidence on dismissed
23 count) which relates to appellate counsel; (4) Ground 4(b) (ineffectiveness re failure to

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1 present a defense); (5) Ground 4(c) (ineffectiveness re discovery); (6) Ground 4(e)
2 (ineffectiveness re SDO allegation); and (7) Ground 4(f) (ineffectiveness re privacy); and

3 (C) Jurists would not reasonably disagree on these questions.

4 Dated: May 4, 2016.

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6 
7 Neil V. Wake
United States District Judge