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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Mitchell Theophilus Garraway,	)	No. CV-15-02163-PHX-SPL
	)	
Petitioner,	)	<b>ORDER</b>
vs.	)	
	)	
K. Tracey, Warden,	)	
	)	
Respondent.	)	

Mitchell Theophilus Garraway, at the time of the Petition, was incarcerated in FCI Phoenix, Arizona. The Petitioner was convicted of murder by a General Court-Martial while serving in the United States military. He filed a *pro se* Petition for Writ of Habeas Corpus by a Person in Federal Custody pursuant to 28 U.S.C. § 2241 (Docs. 1, 2). Respondent filed an Answer (Doc. 16), and Petitioner filed a reply (Doc. 17). United States Magistrate Judge Deborah M. Fine has issued an Amended Report and Recommendation (“R&R”) recommending that the Court dismiss the petition (Doc. 21). The Petitioner timely filed Objections to the R&R (Doc. 23), and the Respondent filed a Response in Opposition to the Petitioner’s Objections to the R&R (Doc. 24). Petitioner does not object to the correctness of the factual background in the R&R, which the Court adopts and incorporates. For the following reasons, the Court accepts and adopts the R&R, and denies the petition.

A district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b). When a party files

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1 a timely objection to an R&R, the district judge reviews *de novo* those portions of the  
2 R&R that have been “properly objected to.” Fed. R. Civ. P. 72(b). A proper objection  
3 requires specific written objections to the findings and recommendations in the R&R. *See*  
4 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); 28 U.S.C. §  
5 636(b)(1). It follows that the Court need not conduct any review of portions to which no  
6 specific objection has been made. *See Reyna-Tapia*, 328 F.3d at 1121; *see also Thomas v.*  
7 *Arn*, 474 U.S. 140, 149 (1985) (discussing the inherent purpose of limited review is  
8 judicial economy). Further, a party is not entitled as of right to *de novo* review of  
9 evidence or arguments which are raised for the first time in an objection to the R&R, and  
10 the Court’s decision to consider them is discretionary. *United States v. Howell*, 231 F.3d  
11 615, 621-622 (9th Cir. 2000).

12 Petitioner objected to the R&R arguing Judge Fine failed to properly distinguish  
13 the facial differences between the Naval Clemency and Parole Board and the United  
14 States Parole Commission’s regulations. He further objected that Judge Fine improperly  
15 added an additional element to the ex post facto clause and failed to consider the way his  
16 punishment was increased by the United States Parole Commission (Doc. 23).

17 The Court has undertaken an extensive review of the issues presented in the  
18 Objections. Petitioner has not shown that he is entitled to habeas relief pursuant to 28  
19 U.S.C. § 2241. Having carefully reviewed the record as a whole, and finding none of  
20 Petitioner’s objections have merit, the R&R will be adopted in full. Accordingly,

21 **IT IS ORDERED:**

22 1. That Magistrate Judge Fine’s Amended Report and Recommendation (Doc.  
23 21) is **accepted** and **adopted** by the Court;


24 2. That the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241  
25 (Docs. 1, 2) is **denied** and this action is **dismissed with prejudice**;

26 3. That a certificate of appealability and leave to proceed *in forma pauperis* on  
27 appeal are **denied** because Petitioner has not made a substantial showing of the denial of  
28 a constitutional right; and

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4. That the Clerk of Court shall **terminate** this action.

Dated this 28th day of June, 2017.

  
Honorable Steven P. Logan  
United States District Judge