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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Valantin Mesidor,

Petitioner,

v.

K. Tracey,

Respondent.

No. CV-15-02260-PHX-DJH

ORDER

16 This matter is before the Court on pro se Petitioner's Petition for Writ of Habeas
17 Corpus pursuant to 28 U.S.C. § 2241 (Doc. 1) and the Report and Recommendation
18 ("R&R") (Doc. 14) of United States Magistrate Judge Deborah M. Fine, filed on
19 September 7, 2016. Petitioner's only ground for relief was "that the Bureau of Prisons
20 failed to credit his sentence with the correct amount of 'Jail Credit.'" (Doc. 14 at 1:20-
21 21). After a thorough and sound analysis, Judge Fine concluded that "the Bureau of
22 Prisons ha[d] calculated Petitioner's sentence correctly." (*Id.* at 6:24). Judge Fine thus
23 recommends denial of the Petition and dismissal.

24 In so recommending, Judge Fine explicitly advised the parties that they had
25 "fourteen days from the date of service of a copy of" the R&R "within which to file
26 specific written objections with the Court." (Doc. 14 at 7:7-8) (citations omitted). Judge
27 Fine further explicitly advised that "[f]ailure to file timely objections to the" R&R "may
28 result in the acceptance of the [R&R] by the District Court without further review." (*Id.*

1 at 7:10-13) (citation omitted). Judge Fine was equally explicit that “[f]ailure to file timely
2 objections to any factual determinations of the Magistrate Judge will be considered a
3 waiver of a party’s right to appellate review of the findings of fact in an order or
4 judgment entered pursuant to the” R&R. (*Id.* at 7:14-16) (citation omitted).

5 In accordance with the foregoing, the parties had until September 26, 2016 by
6 which to timely file objections to the R&R. The parties did not do so. Absent any timely
7 objections, the Court is not required to review the findings and recommendations in the
8 R&R. *See Thomas v. Arn*, 474 U.S. 140, 149 (1989) (The relevant provision of the
9 Federal Magistrates Act, 28 U.S.C. § 636(b)(1)(C), “does not on its face require any
10 review at all . . . of any issue that is not the subject of an objection.”); *see also Wang v.*
11 *Masaitis*, 416 F.3d 992, 1000 n. 13 (9th Cir. 2005) (“Of course, de novo review of a R &
12 R is only required when an objection is made to the R & R, *United States v. Reyna–*
13 *Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (“Neither the Constitution nor the
14 [Federal Magistrates Act] requires a district judge to review, de novo, findings and
15 recommendations that the parties themselves accept as correct”)[.].”). Nonetheless, the
16 Court has reviewed the R&R and agrees with its findings and recommendations. The
17 Court will, therefore, accept the R&R, deny the Petition and dismiss this matter. *See* 28
18 U.S.C. § 636(b)(1)(C) (“A judge of the court may accept, reject, or modify, in whole or in
19 part, the findings or recommendations made by the magistrate judge.”); Fed.R.Civ.P.
20 72(b)(3) (same).

21 Accordingly,

22 **IT IS ORDERED** that Magistrate Judge Fine’s R&R (Doc. 14) is **ACCEPTED**
23 and **ADOPTED** as an Order of this Court.

24 **IT IS FURTHER ORDERED DENYING** and **DISMISSING** the Petition for
25 Habeas Corpus pursuant to 28 U.S.C. § 2241 (Doc. 1).

26 **IT IS FURTHER ORDERED** that a Certificate of Appealability and leave to
27 proceed *in forma pauperis* on appeal are **DENIED** because dismissal Petitioner has not
28 made a substantial showing of the denial of a constitutional right.

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IT IS FINALLY ORDERED that the Clerk of Court shall terminate this action and enter judgment accordingly.

Dated this 17th day of October, 2016.



Honorable Diane J. Humetewa
United States District Judge