

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

James Albert Ashpole,	}	No. CV-15-02300-PHX-SPL (BSB)
	}	
Petitioner,	}	<b>ORDER</b>
vs.	}	
	}	
Justin Beresky, et al.,	}	
	}	
Respondents.	}	

---

Petitioner James Albert Ashpole has filed an Amended Petition for Writ of Habeas Corpus pursuant to pursuant to 28 U.S.C. § 2254 (Doc. 5). The Honorable Bridget S. Bade, United States Magistrate Judge, issued a Report and Recommendation (“R&R”) (Doc. 18), recommending that this matter be stayed and held in abeyance. Judge Bade advised the parties that they had fourteen (14) 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. (Doc. 18) (citing 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72; *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)).

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-

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

6 **IT IS ORDERED:**

7 1. That Magistrate Judge Bridget S. Bade’s Report and Recommendation  
8 (Doc. 18) is **accepted** and **adopted** by the Court;

9 2. That this proceeding is **stayed** and the Amended Petition for Writ of  
10 Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 5) is held in abeyance pending the  
11 Arizona Court of Appeals’ decision in case number 1 CA-CR 16-0103-PRPC; and

12 3. That no later than **thirty (30) days** after the date of service of this Order,  
13 Respondents and Petitioner must inform the Court of the status of his proceedings in state  
14 court; and

15 4. That every **ninety (90) days** after the filing of the initial status report,  
16 Petitioner and Respondents must file a new report regarding the status of the state court  
17 proceedings. Petitioner’s failure to comply with these instructions may result in the Court  
18 vacating the stay and dismissing this matter for failure to comply with Court orders. *See*  
19 Fed. R. Civ. P. 41(b).

20 Dated this 29th day of April, 2016.

21  
22   
23 Honorable Steven P. Logan  
24 United States District Judge  
25  
26  
27  
28