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

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Gilberto Jimenez-Najera,

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Petitioner,

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v.

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USA,

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Respondent.

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No. CV-15-02565-PHX-GMS

No. CR-14-01418-001-PHX-GMS

**ORDER**

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Pending before the Court are Petitioner's Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. ¶ 2255 and United States Magistrate Judge David K. Duncan's Report and Recommendation ("R&R"). Docs. 1, 6. The R&R recommends that the Court deny Petitioner's Motion to Vacate, Set Aside or Correct Sentence. Doc. 6 at 6. The Magistrate Judge 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. *Id.* at 7 (citing Fed. R. Civ. P. 72, 6(a), 6(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)).

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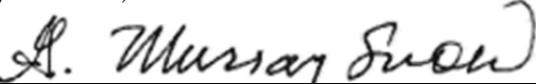
The parties did not file objections, which relieves the Court of its obligation to review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149 (1985) ("[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is not the subject of an objection."); 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 accept the R&R and deny the Motion to Vacate, Set Aside, or  
2 Correct Sentence. *See* 28 U.S.C. § 636(b)(1) (stating that the district court “may accept,  
3 reject, or modify, in whole or in part, the findings or recommendations made by the  
4 magistrate”); Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject, or modify  
5 the recommended disposition; receive further evidence; or return the matter to the  
6 magistrate judge with instructions.”).

7 **IT IS ORDERED:**

- 8 1. Magistrate Judge Duncan’s R&R (Doc. 6) is **accepted**.
- 9 2. Petitioner’s Motion to Vacate, Set Aside or Correct Sentence (Doc. 1) is  
10 **denied**.
- 11 3. Petitioner’s Motion for Award of Relief Requested (Doc. 5) is **denied**.
- 12 4. The Clerk of Court shall **terminate** this action and enter judgment  
13 accordingly.
- 14 5. Pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, in the  
15 event Movant files an appeal, the Court declines to issue a certificate of appealability  
16 because reasonable jurists would not find the Court’s procedural ruling debatable. *See*  
17 *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

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19 Dated this 13th day of June, 2016.

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Honorable G. Murray Snow  
22 United States District Judge  
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