

1

2

3

4

5

6

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

7

8

9

Carlos Antonio Garcia-Hurtado,

No. CV-16-00457-PHX-GMS

10

Petitioner,

ORDER

11

v.

12

USA,

13

Respondent.

14

15

16

17

18

19

20

21

22

Pending before the Court are Petitioner's Motion to Vacate, Set Aside, or Correct Sentence and United States Magistrate Judge David K. Duncan's Report and Recommendation ("R&R") (Docs. 1, 21). The R&R recommends that the Court deny the Motion (Doc. 21 at 4). The Magistrate Judge advised the parties that they had fourteen 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 4 (citing 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)).

23

24

25

26

27

28

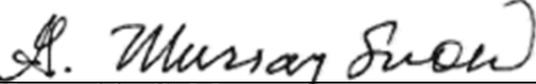
The parties did not file objections, which relieves the Court of its obligation to review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149 (1985) ("[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is not the subject of an objection."); 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. *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.”).

6 **IT IS HEREBY ORDERED:**

- 7 1. Magistrate Judge Duncan’s R&R (Doc. 21) is **accepted**.
- 8 2. Petitioner’s Motion to Vacate, Set Aside, or Correct Sentence (Doc. 1) is
9 **denied**.
- 10 3. The Clerk of Court shall **terminate** this action.
- 11 4. In the event Petitioner files an appeal, the Court declines to issue a
12 certificate of appealability because Petitioner has not made a substantial showing of the
13 denial of a constitutional right.

14 Dated this 2nd day of May, 2017.

15 
16 _____
17 Honorable G. Murray Snow
18 United States District Judge
19
20
21
22
23
24
25
26
27
28