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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Guadalupe Chavez-Duarte,

10 Petitioner,

11 v.

12 Charles Ryan, et al.,

13 Respondents.  
14

No. CV-16-01209-PHX-JAT

**ORDER**

15 Pending before this Court is Petitioner's Petition for Writ of Habeas Corpus. On  
16 December 9, 2016, the Magistrate Judge to whom this case was assigned issued a Report  
17 and Recommendation (R&R) recommending that this Court deny and dismiss the Petition  
18 because it is barred by the statute of limitations. Petitioner filed objections to the R&R.

19 This Court "may accept, reject, or modify, in whole or in part, the findings or  
20 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). It is "clear that  
21 the district judge must review the magistrate judge's findings and recommendations de  
22 novo if objection is made, but not otherwise." *United States v. Reyna-Tapia*, 328 F.3d  
23 1114, 1121 (9th Cir. 2003) (en banc) (emphasis in original); *Schmidt v. Johnstone*, 263  
24 F.Supp.2d 1219, 1226 (D.Ariz. 2003) ("Following Reyna-Tapia, this Court concludes  
25 that de novo review of factual and legal issues is required if objections are made, 'but not  
26 otherwise.'"); *Klamath Siskiyou Wildlands Ctr. v. U.S. Bureau of Land Mgmt.*, 589 F.3d  
27 1027, 1032 (9th Cir. 2009) (the district court "must review de novo the portions of the  
28 [Magistrate Judge's] recommendations to which the parties object."). District courts are

1 not required to conduct “any review at all . . . of any issue that is not the subject of an  
2 objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (emphasis added); *see also* 28  
3 U.S.C. § 636(b)(1) (“the court shall make a de novo determination of those portions of  
4 the [report and recommendation] to which objection is made.”).

5 The R&R concludes that, after all statutory tolling, Petitioner’s conviction became  
6 final on May 1, 2004; thus the one year statute of limitations expired on May 1, 2005.  
7 Doc. 11 at 4. The R&R then notes that the Petition in this case was filed on April 19,  
8 2016, almost 11 years late. *Id.* at 4-5. Finally, the R&R concludes that Petitioner is not  
9 entitled to equitable tolling. *Id.* at 5-6.

10 Petitioner filed objections to the R&R. Doc. 12. Petitioner does not make any  
11 argument in his objections that would show his due diligence or the extraordinary  
12 circumstances necessary to obtain equitable tolling. *Id.* Accordingly, reviewing the  
13 R&R de novo, the Court adopts the conclusion that the Petition in this case is barred by  
14 the statute of limitations.

15 Therefore,

16 **IT IS ORDERED** that the Report and Recommendation (Doc. 11) is accepted and  
17 adopted. The objections (Doc. 12) are overruled. The Petition is denied and dismissed  
18 because it is barred by the statute of limitations and the Clerk of the Court shall enter  
19 judgment accordingly.

20 **IT IS FURTHER ORDERED** that pursuant to Rule 11 of the Rules Governing  
21 Section 2254 Cases, in the event Petitioner files an appeal, the Court denies issuance of a  
22 certificate of appealability because dismissal of the petition is based on a plain procedural  
23 bar and jurists of reason would not find this Court’s procedural ruling debatable. *See*  
24 *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

25 Dated this 30th day of January, 2017.

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