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NOT FOR PUBLICATION

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

Saul Olvera-Dominguez,
Petitioner,
v.
Charles L. Ryan, et al.,
Respondents.

No. CV-16-01612-PHX-DJH
ORDER

This matter is before the Court on *pro se* Petitioner’s Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) and the Report and Recommendation (“R&R”) (Doc. 15) of United States Magistrate Judge Bridget S. Bade, filed on January 30, 2017. The Petitioner asserts a claim for ineffective assistance of trial counsel (“IAC”) based upon four separate grounds. After full consideration, Judge Bade soundly reasoned that Petitioner was not entitled to relief upon any of the four grounds which form the basis of his IAC claim. Hence, she recommends denial of the Petition. Judge Bade further recommends “that a Certificate of Appealability and leave to proceed in forma pauperis on appeal be **DENIED** because Petitioner has not made a substantial showing of the denial of a constitutional right.” (Doc. 15 at 17:10-12).

In so recommending, Judge Bade explicitly advised the parties that they had “fourteen days from the date of service of a copy of” the R&R “within which to file specific written objections with the Court.” (Doc. 15 at 17:16-17) (citations omitted). Judge Bade further explicitly advised that “[f]ailure to file timely objections to the” R&R

1 “may result in the acceptance of the District Court’s acceptance of the [R&R] without
2 further review.” (*Id.* at 17:19-21) (citation omitted). Judge Bade was equally explicit that
3 “[f]ailure to file timely objections to any factual determination of the Magistrate Judge
4 may be considered a waiver of a party’s right to appellate review of the findings of fact in
5 an order or judgment entered pursuant to the” R&R. (*Id.* at 8:16-19) (citation omitted).

6 In accordance with the foregoing, the parties had until February 16, 2017 by which
7 to timely file objections to the R&R. The parties did not do so. Absent any timely
8 objections, the Court is not required to review the findings and recommendations in the
9 R&R. *See Thomas v. Arn*, 474 U.S. 140, 149 (1989) (The relevant provision of the
10 Federal Magistrates Act, 28 U.S.C. § 636(b)(1)(C), “does not on its face require any
11 review at all . . . of any issue that is not the subject of an objection.”); *United States v.*
12 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (same); Fed.R.Civ.P. 72(b)(3) (“The
13 district judge must determine de novo any part of the magistrate judge’s disposition that
14 has been properly objected to.”). Nonetheless, the Court has reviewed the R&R and
15 agrees with its findings and recommendations. The Court will, therefore, accept the R&R,
16 deny the Petition and dismiss this matter with prejudice. *See* 28 U.S.C. § 636(b)(1)(C)
17 (“A judge of the court may accept, reject, or modify, in whole or in part, the findings or
18 recommendations made by the magistrate judge.”); Fed.R.Civ.P. 72(b)(3) (same).

19 Accordingly,

20 **IT IS ORDERED** that Magistrate Judge Bade’s R&R (Doc. 15) is **accepted** and
21 **adopted** as an Order of this Court.

22 **IT IS FURTHER ORDERED** that the Petition for Habeas Corpus pursuant to 28
23 U.S.C. § 2254 (Doc. 1) is **denied** and **dismissed with prejudice**.

24 **IT IS FURTHER ORDERED** that pursuant to Rule 11(a) of the Rules Governing
25 Section 2254 Cases, a Certificate of Appealability and leave to proceed *in forma pauperis*
26 on appeal are **denied** because Petitioner also has not made the required substantial
27 showing of the denial of a constitutional right.

28 **IT IS FINALLY ORDERED** that the Clerk of Court shall terminate this action

1 and enter judgment accordingly.

2 **Dated** this 10th day of April, 2017.

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5 Honorable Diane J. Humetewa
United States District Judge
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