

1 NOT FOR PUBLICATION  
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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Carlos Gomez-Ochoa,  
10 Petitioner,

11 v.

12 Loretta E Lynch, *et al.*,  
13 Respondents.  
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No. CV-16-01646-PHX-JJT (BSB)

**ORDER**

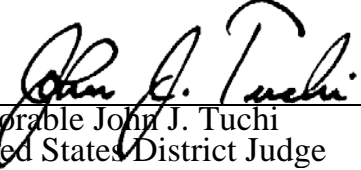
15 At issue is Magistrate Judge Bridget S. Bade's Report and Recommendation  
16 (R&R) in this matter filed February 8, 2017 (Doc. 26). The R&R recommends that the  
17 Court deny Carlos Gomez-Ochoa's Amended Petition for Writ of Habeas Corpus  
18 (Doc. 22). The R&R clearly advised Petitioner that he had fourteen days from the date of  
19 service of a copy of the R&R to file any specific written objections. Fed. R. Civ. Pr. 72.  
20 Petitioner filed no objections, and the time to do so is now long past. Petitioner has  
21 therefore waived his right to *de novo* consideration of the issues per *United States v.*  
22 *Rayna-Tapia*, 328 F.3d 1141, 1121 (9<sup>th</sup> Cir. 2003)(*en banc*), and the Court may accept the  
23 R&R without further review. Nonetheless, the Court has conducted a review on the  
24 merits of the issues involved. It finds that Magistrate Judge Bade's reasoning and analysis  
25 are correctly applied to the procedural situation.

26 Petitioner challenges the Immigration Judge's (IJ's) decisions at bond  
27 redetermination hearings involving Petitioner in January and September 2016, arguing  
28 that his procedural due process rights were violated at each hearing. (Doc. 22.) As Judge

1 Bade correctly concluded and recommended, Petitioner has failed to exhaust his  
2 administrative remedies with respect to the September 2016 hearing, which is still on  
3 appeal to the Board of Immigration Appeals (BIA) and it is thus not properly before this  
4 Court. Even if Petitioner's claim regarding the September 2016 IJ hearing were properly  
5 exhausted, however, it, like the claim involving the January 2016 IJ hearing, would fail.  
6 As Judge Bade set forth in the R&R, Petitioner received *Rodriguez* hearings, thus  
7 satisfying the procedural due process requirements, and in those hearings the IJ set forth  
8 multi-faceted justifications for the IJ's rulings that properly considered not only  
9 Petitioner's criminal history but risk to the community and other required factors in the  
10 calculus. The Court, for all of the above reasons, will deny and dismiss the Amended  
11 Petition.

12 IT IS ORDERED denying and dismissing the Amended Petition in this matter  
13 (Doc. 22) and instructing the Clerk to close the matter.

14 Dated this 6th day of March, 2017.

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18 Honorable John J. Tuchi  
19 United States District Judge  
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