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**NOT FOR PUBLICATION**

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

Anthony J Gonsalves,  
  
                                Petitioner,  
  
v.  
  
Charles L Ryan, et al.,  
  
                                Respondents.

No. CV-16-01774-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. 14) of United States Magistrate Judge Bridget S. Bade, filed on December 22, 2016. The Petitioner asserts a single claim for relief based upon the alleged ineffective assistance of his trial counsel. Judge Bade soundly reasoned that this claim lacks merit. Hence, she recommends denial of the Petition and dismissal with prejudice.

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. 14 at 8:10-11) (citations omitted). Judge Bade further explicitly advised that “[f]ailure to file timely objections to the” R&R “may result in the acceptance of the [R&R] by the District Court without further review.” (*Id.* at 8:13-15) (citation omitted). Judge Bade was equally explicit that “[f]ailure to file timely objections to any factual determination of the Magistrate Judge may be considered

1 a waiver of a party's right to appellate review of the findings of fact in an order or  
2 judgment entered pursuant to the" R&R. (*Id.* at 8:16-19) (citation omitted).

3 In accordance with the foregoing, the parties had until January 4, 2017 by which to  
4 timely file objections to the R&R. The parties did not do so. Absent any timely  
5 objections, the Court is not required to review the findings and recommendations in the  
6 R&R. *See Thomas v. Arn*, 474 U.S. 140, 149 (1989) (The relevant provision of the  
7 Federal Magistrates Act, 28 U.S.C. § 636(b)(1)(C), "does not on its face require any  
8 review at all . . . of any issue that is not the subject of an objection."); *United States v.*  
9 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003) (same); Fed.R.Civ.P. 72(b)(3) ("The  
10 district judge must determine de novo any part of the magistrate judge's disposition that  
11 has been properly objected to."). Nonetheless, the Court has reviewed the R&R and  
12 agrees with its findings and recommendations. The Court will, therefore, accept the R&R,  
13 deny the Petition and dismiss this matter with prejudice. *See* 28 U.S.C. § 636(b)(1)(C)  
14 ("A judge of the court may accept, reject, or modify, in whole or in part, the findings or  
15 recommendations made by the magistrate judge."); Fed.R.Civ.P. 72(b)(3) (same).

16 Accordingly,

17 **IT IS ORDERED** that Magistrate Judge Bade's R&R (Doc. 14) is **accepted and**  
18 **adopted** as an Order of this Court.


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

21 **IT IS FURTHER ORDERED** that pursuant to Rule 11(a) of the Rules Governing  
22 Section 2254 Cases, a Certificate of Appealability and leave to proceed *in forma pauperis*  
23 on appeal are **DENIED** because dismissal of the Petition is justified, in part, because  
24 reasonable jurists could not find that the Court's determination that Petitioner is not  
25 entitled to relief debatable, wrong, or deserving of encouragement to proceed further. *See*  
26 *Miller-El v. Cockrell*, 537 U.S. 322, 326 (2003). Petitioner also has not made the required  
27 substantial showing of the denial of a constitutional right. *See id.* (citing 28 U.S.C. §  
28 2253(c)(2)).

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**IT IS FINALLY ORDERED** that the Clerk of Court shall terminate this action and enter judgment accordingly.

Dated this 25th day of January, 2017.

  
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Honorable Diane J. Humetewa  
United States District Judge