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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Levi Shane Ales,

Petitioner,

v.

Charles Ryan, et al.,

Respondent.

No. CV-16-1840-PHX-NVW (JZB)

ORDER

and

**DENIAL OF CERTIFICATE OF
APPEALABILITY AND IN FORMA
PAUPERIS STATUS**

Pending before the Court is the Report and Recommendation (“R&R”) of Magistrate Judge John Z. Boyle (Doc. 15) regarding petitioner’s Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1). The R&R recommends that the Petition be denied and dismissed with prejudice. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at 16 (citing 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(b) and 72. Petitioner filed objections on January 26, 2017 (Doc. 16).

The Court has considered the objections and reviewed the Report and Recommendation de novo. *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that the court must make a de novo determination of those portions of the Report and Recommendation to which specific objections are made). The Court agrees with the Magistrate Judge’s determinations, accepts the recommended decision within the meaning of Rule 72(b), Fed. R. Civ. P., and overrules Petitioner’s objections. *See* 28

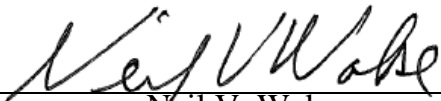
1 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole
2 or in part, the findings or recommendations made by the magistrate”).

3 IT IS THEREFORE ORDERED that Report and Recommendation of the
4 Magistrate Judge (Doc. 15) is accepted.

5 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying
6 and dismissing Petitioner’s Petition for Writ of Habeas Corpus filed pursuant to 28
7 U.S.C. § 2254 (Doc. 1) with prejudice. The Clerk shall terminate this action.

8 The request for a certificate of appealability is denied because appellant has not
9 shown that “jurists of reason would find it debatable whether the petition states a valid
10 claim of the denial of a constitutional right and that jurists of reason would find it
11 debatable whether the district court was correct in its procedural ruling.” *Slack v.*
12 *McDaniel*, 529 U.S. 473, 484 (2000); see also 28 U.S.C. § 2253(c)(2); *Gonzalez v.*
13 *Thaler*, 132 S. Ct. 641, 648 (2012); *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

14 Dated this 22nd day of February, 2017.

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Neil V. Wake
Senior United States District Judge