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

Samuel Cresante,
Petitioner,
v.
USA,
Respondent.

No. CV-16-02049-PHX-ROS
No. CR-10-00117-PHX-ROS

ORDER

On November 28, 2016, Magistrate Judge John Z. Boyle issued a Report and Recommendation (“R&R”) recommending Petitioner’s Motion to Vacate, Set Aside, or Correct Sentence by a person in Federal Custody pursuant to 28 U.S.C. § 2255 (Doc. 1) be dismissed without prejudice. (Doc. 12.) No objections were filed.

A district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b). Where any party has filed timely objections to the R&R, the district court’s review of the part objected to must be *de novo*. *Id.* If, however, no objections are filed, the district court need not conduct such a review. *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003). No objections having been filed, the R&R will be adopted in full.

Accordingly,

IT IS ORDERED the Report and Recommendation (Doc. 12) is **ADOPTED**.

IT IS FURTHER ORDERED Petitioner’s Motion to Dismiss (Doc. 11) is **GRANTED**.

1 **IT IS FURTHER ORDERED** Petitioner's Motion to Vacate, Set Aside, or
2 Correct Sentence by a person in Federal Custody pursuant to 28 U.S.C. § 2255 (Doc. 1) is
3 **DISMISSED WITHOUT PREJUDICE.**

4 Dated this 2nd day of February, 2017.

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8 Honorable Roslyn O. Silver
9 Senior United States District Judge
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