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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

United States of America,  
  
Plaintiff/Respondent,  
  
vs.  
  
Jason Darwin Holmes, Sr.,  
  
Defendant/Movant.

No. CV-16-02062-PHX-SPL  
(No. CR-05-00165-PHX-SPL)

**ORDER**

Movant Jason Darwin Holmes, Sr. has filed a Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody pursuant to 28 U.S.C. § 2255 (“Motion”) (Doc. 1). On September 18, 2017, the Honorable John Z. Boyle, United States Magistrate Judge, issued a Report and Recommendation (“R&R”), recommending that the Court deny the Motion. Judge Boyle advised the parties that they had fourteen (14) days to file objections to the R&R and that failure to file timely objections could be considered a waiver of the right to obtain review of the R&R. (Doc. 11 at 6); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72; *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

The parties did not file objections, which relieves the Court of its obligation to review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (“[Section 636(b)(1)] does not... require any review at all... of any issue that is not the subject of an objection.”); Fed. R. Civ. P. 72(b)(3) (“The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly

1 objected to.”). The Court has nonetheless reviewed the R&R and finds that it is well-  
2 taken. The Court will adopt the R&R and deny the Motion. *See* 28 U.S.C. § 636(b)(1)  
3 (stating that the district court “may accept, reject, or modify, in whole or in part, the  
4 findings or recommendations made by the magistrate”); Fed. R. Civ. P. 72(b)(3) (“The  
5 district judge may accept, reject, or modify the recommended disposition; receive further  
6 evidence; or return the matter to the magistrate judge with instructions.”). Accordingly,

7 **IT IS ORDERED:**

8 1. That Magistrate Judge Boyles’ Report and Recommendation (Doc. 11) is  
9 **accepted** and **adopted** by the Court;

10 2. That the Motion to Vacate, Set Aside, or Correct Sentence by a Person in  
11 Federal Custody pursuant to 28 U.S.C. § 2255 (CV-16-02062-PHX-SPL, Doc. 1; Doc.  
12 74, CR-05-00165-PHX-SPL) is **denied**;

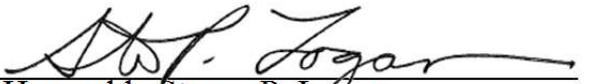
13 3. That this case is **dismissed with prejudice**;

14 4. That a certificate of appealability and leave to proceed *in forma pauperis* on  
15 appeal are **denied** because Defendant has not made a substantial showing of the denial of  
16 a constitutional right;

17 5. That the Clerk of Court shall file this Order in the underlying related criminal  
18 action, Case No. CR-05-00165-PHX-SPL; and

19 6. That the Clerk of Court shall enter judgment accordingly and **terminate** this  
20 action.

21 Dated this 23rd day of October, 2017.

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23 \_\_\_\_\_  
24 Honorable Steven P. Logan  
25 United States District Judge  
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