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NOT FOR PUBLICATION

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

Jason Lee Harris,  
Petitioner,  
v.  
Charles L Ryan, et al.,  
Respondents.

No. CV-16-02182-PHX-SRB  
**ORDER**

Petitioner Jason Lee Harris filed his Petition for Writ of Habeas Corpus challenging his conviction in state court pursuant to a plea agreement on July 5, 2016. Respondents filed a limited answer on December 8, 2016 and Petitioner filed his reply on December 15, 2016. In his Petition, Harris alleges that his Sixth Amendment rights to a speedy trial were violated by a nearly two month delay between his initial appearance and his initial pretrial conference, his Fourteenth Amendment due process rights were violated when the court denied his motions to proceed pro per in order to have a more speedy trial, and he received ineffective assistance of counsel because his counsel did not raise the alleged speedy trial violation, file any motions, or proceed in Harris’s interest. Respondent’s limited answer argues that because Harris pled guilty, collateral review is barred for the pre-plea non-jurisdictional constitutional claims he raises in his Petition including ineffective assistance of counsel. Respondents also argue that Harris did not exhaust his state court remedies and is subject to a procedural bar. Harris did not file a Petition for Post-Conviction Relief in state court.

1           The Magistrate Judge issued his Report and Recommendation on April 4, 2017  
2 recommending that the Petition for Writ of Habeas Corpus be denied and dismissed with  
3 prejudice because Harris's guilty plea precludes habeas review of pre-plea non-  
4 jurisdictional constitutional claims and Harris's claims for deprivation of constitutional  
5 rights are all based on pre-plea conduct. The Magistrate Judge concluded that because  
6 Harris's plea was voluntarily and intelligently made, Harris may not subsequently seek  
7 federal habeas corpus relief. With respect to the claim of ineffective assistance of counsel  
8 the Magistrate Judge also concluded Harris never addressed any prejudice that he  
9 suffered or claimed the alleged ineffectiveness rendered his plea not voluntary, intelligent  
10 and knowing, therefore, the Court could not review the claim.

11           Harris filed timely written Objections to the Report and Recommendation of the  
12 Magistrate Judge to which the Respondents filed a response in support of the Report and  
13 Recommendation of Magistrate Judge. Harris's Objections raise the same arguments that  
14 he made in his original Petition asserting the alleged denial of constitutional rights that  
15 occurred prior to the entry of his guilty plea and states that the court should look to the  
16 circumstances under which he pled guilty. The Magistrate Judge did look at the  
17 circumstances under which he pled guilty noting that he had a settlement conference just  
18 after his initial pretrial conference and then pled guilty to one count of indecent exposure,  
19 a class 6 felony with two prior felony convictions and that the plea agreement contains  
20 Harris' initials on each individual paragraph. The Magistrate Judge also reviewed the  
21 signed Notice of Rights of Review after Conviction and Procedure form that explained  
22 the steps Harris needed to follow if he wished to exercise his right to post-conviction  
23 relief. There is nothing in the Petition or in the Objections that suggests that Harris meets  
24 any exception to the rule that a knowing, intelligent and voluntary guilty plea precludes  
25 raising claims of deprivation of constitutional rights that allegedly occurred before the  
26 entry of the guilty plea.

27           IT IS ORDERED overruling Harris' Objections to the Report and  
28 Recommendation of the Magistrate Judge.

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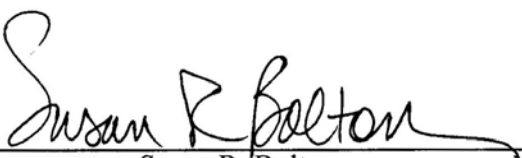
IT IS FURTHER ORDERED adopting the Report and Recommendation of the Magistrate Judge as the Order of this Court. (Doc. 40)

IT IS FURTHER ORDERED denying Harris' Petition for Writ of Habeas Corpus and dismissing it with prejudice.

IT IS FURTHER ORDERED denying a Certificate of Appealability and leave to proceed *in forma pauperis* on appeal because dismissal of the Petition is justified by a plain procedural bar and jurists of reason would not find the ruling debatable.

IT IS FURTHER ORDERED directing the Clerk to enter judgment accordingly.

Dated this 3rd day of May, 2017.

  
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Susan R. Bolton  
United States District Judge