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

Omar Mendoza,
Movant/Defendant,
v.
USA,
Respondent/Plaintiff.

No. CV-16-02555-PHX-GMS
No. CR-09-0709-PHX-GMS

ORDER

Pending before the Court is Movant's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence and United States Magistrate Judge James F. Metcalf's Report and Recommendation ("R&R"). Docs. 1, 14. The R&R recommends that the Court dismiss the Motion with prejudice. Doc. 14 at 9. The Magistrate Judge advised the parties that they had fourteen 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. *Id.* at 9 (citing Fed. R. Civ. P. 72 (b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)).

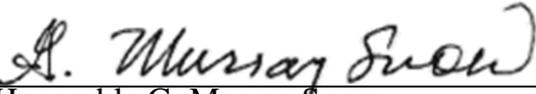
The parties did not file objections, which relieves the Court of its obligation to review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149 (1985) ("[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is not the subject of an objection."); 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 accept the R&R and dismiss the Motion with prejudice. *See* 28
3 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole
4 or in part, the findings or recommendations made by the magistrate”); Fed. R. Civ. P.
5 72(b)(3) (“The district judge may accept, reject, or modify the recommended disposition;
6 receive further evidence; or return the matter to the magistrate judge with instructions.”).

7 **IT IS ORDERED:**

- 8 1. Magistrate Judge Metcalf’s R&R (Doc. 14) is **accepted**.
- 9 2. The Movant’s Motion to Vacate, Set Aside or Correct Sentence (Doc. 1) is
10 **dismissed with prejudice**.
- 11 3. This action is terminated and the Clerk of Court is directed to enter
12 judgment accordingly.
- 13 4. Pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, in the
14 event Movant files an appeal, the Court declines to issue a certificate of appealability
15 because reasonable jurists would not find the Court’s procedural ruling debatable. *See*
16 *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

17 Dated this 8th day of May, 2017.

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19 _____
20 Honorable G. Murray Snow
21 United States District Judge
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