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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Johnathan T. Hernandez,	}	No. CV-16-02727-PHX-SPL
	}	
Petitioner,	}	ORDER
v.	}	
	}	
Charles L. Ryan, et al,	}	
	}	
Respondents.	}	

The Court has before it Petitioner’s Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. (Doc. 1.) The Court has also received Respondents’ Answer (Doc. 11), and Petitioner’s Traverse. (Doc. 18.) We also have before us the Report and Recommendation (R&R) of United States Magistrate Judge Deborah M. Fine (Doc. 19), and Petitioner’s timely Objections. (Doc. 20.)

Petitioner was indicted, August 9, 2010, on three counts: sexual conduct with a minor (Counts 1 and 2), and child prostitution (Count 3). (Doc. 11, Ex. A.) The petitioner was subsequently offered a plea agreement that would require the Petitioner to plead guilty to one count of child prostitution and two counts of attempted sexual contact with a minor. (Doc. 11, Ex. C.) The Petitioner rejected the offer from Maricopa County and the jury subsequently found the Petitioner guilty on Count 1, acquitted him on Count 2 and the jury deadlocked on Count 3. (Doc. 11, Ex. J.) The Petitioner was sentenced to 18 years of imprisonment. (Doc. 11, Ex. L.)

The Petitioner raises one ground for relief in his Petition for Writ of Habeas

1 Corpus. The Petitioner argues that his trial counsel was ineffective because trial counsel
2 provided Petitioner with a mistake as to the victim’s age defense which Petitioner alleges
3 led to his rejection of the plea offer from Maricopa County. (Doc. 1 at 6.) Respondents
4 argue that the claims of the Petitioner are meritless and the Petition should be denied.
5 (Doc. 11.)

6 Judge Fine concluded the Petitioner has not asserted a colorable claim and that he
7 is not entitled to an evidentiary hearing. (Doc. 19.) Additionally, the magistrate judge
8 further concluded that the state court acted reasonably in refusing Petitioner’s requests for
9 an evidentiary hearing. (*Id.*)

10 Petitioner articulated his displeasure with Judge Fine’s findings and conclusions.
11 (Doc. 20 at 5-11.) The Petitioner also repeated the same arguments that were laid out in
12 the Petition and Traverse. (Docs. 1, 18.)

13 A district judge “may accept, reject, or modify, in whole or in part, the findings or
14 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b). When a party files
15 a timely objection to an R&R, the district judge reviews *de novo* those portions of the
16 R&R that have been “properly objected to.” Fed. R. Civ. P. 72(b). A proper objection
17 requires specific written objections to the findings and recommendations in the R&R. *See*
18 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); 28 U.S.C. §
19 636(b)(1). It follows that the Court need not conduct any review of portions to which no
20 specific objection has been made. *See Reyna-Tapia*, 328 F.3d at 1121; *see also Thomas v.*
21 *Arn*, 474 U.S. 140, 149 (1985) (discussing the inherent purpose of limited review is
22 judicial economy). Further, a party is not entitled as of right to *de novo* review of
23 evidence or arguments which are raised for the first time in an objection to the R&R, and
24 the Court’s decision to consider them is discretionary. *United States v. Howell*, 231 F.3d
25 615, 621-622 (9th Cir. 2000).

26 The Court finds that although the Petitioner filed objections (Doc. 20), he failed to
27 provide specific written objections to the findings and recommendations in the R&R.
28 Nonetheless, the Court has undertaken an extensive review of the sufficiently developed

1 record and the objections to the findings and recommendations in the very detailed R&R,
2 without the need for an evidentiary hearing.

3 After conducting a *de novo* review of the issues and objections, the Court reaches
4 the same conclusions reached by Judge Fine. Specifically, the Court finds the Petition
5 fails on the merits.

6 Having carefully reviewed the record, the Petitioner has not shown that he is
7 entitled to habeas relief. Finding none of Petitioner's objections have merit, the R&R
8 will be adopted in full. Accordingly,

9 **IT IS ORDERED:**

10 1. That the Magistrate Judge's Report and Recommendation (Doc. 19) is
11 **accepted** and **adopted** by the Court;

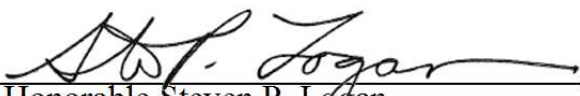
12 2. That the Petitioner's Objections (Doc. 20) are **overruled**;

13 3. That the Petition for Writ of Habeas Corpus (Doc. 1) is **denied** and this
14 action is **dismissed with prejudice**;

15 4. That a Certificate of Appealability and leave to proceed *in forma pauperis*
16 on appeal are **denied** because the dismissal of the Petition is justified by a plain
17 procedural bar and reasonable jurists would not find the ruling debatable; and

18 5. That the Clerk of Court shall **terminate** this action.

19 Dated this 20th day of December, 2017.

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21 
22 Honorable Steven P. Logan
23 United States District Judge
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