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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Gregory Joe Lunsford,
Petitioner,
v.
Carla Hacker-Agnew, et al.,
Respondents.

No. CV-16-03216-PHX-DLR (JZB)

**ORDER and
DENIAL OF CERTIFICATE OF
APPEALABILITY AND IN FORMA
PAUPERIS STATUS**


Pending before the Court is the Report and Recommendation (“R&R”) of Magistrate Judge John Z. Boyle (Doc. 15), regarding Petitioner Joe Lunsford’s Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1). The R&R recommends that the Petition be denied and dismissed with prejudice. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (Doc. 15 at 30 (citing 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(b) and 72).) Petitioner filed an objection to the R&R on June 16, 2017. (Doc. 16.) On June 22, 2017, Respondents filed their response (Doc. 17), and on July 14, 2017, Petitioner filed his reply (Doc. 18).

The Court has considered the objections, the response and reply and reviewed the R&R de novo. *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that the court must make a de novo determination of those portions of the Report and Recommendation to which specific objections are made). The Court agrees with the Magistrate Judge’s determinations, accepts the recommended decision within the meaning of Rule 72(b), and overrules Petitioner’s objections. *See* 28 U.S.C. § 636(b)(1) (stating that the district court

1 “may accept, reject, or modify, in whole or in part, the findings or recommendations
2 made by the magistrate”).

3 **IT IS ORDERED** that Report and Recommendation of the Magistrate Judge
4 (Doc.15) is **ACCEPTED**. Having considered the issuance of a Certificate of
5 Appealability from the order denying Petitioner’s Petition for a Writ of Habeas Corpus, a
6 Certificate of Appealability and leave to proceed in forma pauperis on appeal are
7 **DENIED** because dismissal of the Petition is justified by a plain procedural bar. The
8 Clerk of the Court enter judgment denying and dismissing Petitioner’s Petition for Writ
9 of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1) with prejudice. The Clerk
10 shall terminate this action.

11 Dated this 25th day of January, 2018.

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17 Douglas L. Rayes
18 United States District Judge
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