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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Michael James Hoffman,	}	No. CV-16-03598-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), Petitioner’s Motion to Allow Petitioner Access to each DVD in his Trial File (Doc. 17), Respondents’ Answer (Doc. 18), and Petitioner’s Reply in Support of the Petition for Habeas Corpus. (Doc. 25.) We also have before us the Report and Recommendation (R&R) of United States Magistrate Judge James F. Metcalf (Doc. 32), Petitioner’s Response to the Report and recommendation¹ (Doc. 33), Respondents’ Response to the Petitioner’s Objections to the Report and Recommendation (Doc. 34), and Petitioner’s Motion Requesting a Ruling on the Petition for Writ of Habeas Corpus. (Doc. 35.)

Petitioner was indicted May 12, 2012, on seven counts of sexual assault, four counts of kidnapping, two counts of sexual abuse, one count of attempted sexual assault, and one count of public sexual indecency. (Doc. 18, Ex. P.) The charges were based on

¹ The Court considers this document the Petitioner’s Objections.

1 events that occurred between October 2004 and September 2011. (*Id.*) At trial, four
2 victims testified that the Petitioner forced them into his vehicle and sexually assaulted
3 them. (*Id.*) The jury convicted the Petitioner of all but one count and the Petitioner was
4 subsequently sentenced to 69 years of imprisonment. (*Id.*)

5 The Petitioner raised 20 grounds for relief in his Petition for Writ of Habeas
6 Corpus. (Doc. 1.) Upon review of the R&R and the parties' submissions, the Court will
7 adopt in whole Judge Metcalf's recommendations and the underlying reasoning. Judge
8 Metcalf correctly concluded the Petitioner's claims merited no relief and that the Petition
9 for Writ of Habeas Corpus should be dismissed with prejudice. (Doc. 32.)

10 In his Objections to the Report and Recommendation, Petitioner repeats the same
11 arguments that were laid out in the Petition. (Doc. 1.) Additionally, the Petitioner
12 continues to articulate his version of the facts as he recalls them. (Doc. 33.)

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. 33), 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 Metcalf. Specifically, the Court finds the claims
5 are not cognizable on habeas and/or are procedurally barred.

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. 32) is
11 **accepted** and **adopted** by the Court;

12 2. That the Petitioner's Objections (Doc. 33) 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;

18 5. That Petitioner's Motion to Grant Access to DVDs (Doc. 17) is **denied as**
19 **moot**;

20 6. That Petitioner's Motion Requesting a Ruling on the Petition for Writ of
21 Habeas Corpus (Doc. 35) is **granted**; and

22 7. That the Clerk of Court shall **terminate** this action.

23 Dated this 4th day of December, 2017.

24
25 
26 Honorable Steven P. Logan
27 United States District Judge
28