

1 NOT FOR PUBLICATION
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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 United States of America,
10 Plaintiff/Respondent,
11 v.
12 Augustine Bernal Thomas,
13 Defendant/Movant.
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No. CV-16-04582-PHX-SRB
CR-10-00927-01-PHX-SRB
ORDER

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16 Movant, Augustine Bernal Thomas, filed a Motion to Vacate, Set Aside, or
17 Correct Sentence pursuant to 28 U.S.C. § 2255 on June 13, 2016. The United States filed
18 a Motion to Dismiss on May 5, 2017. Movant filed a response to the Motion to Dismiss
19 on June 13, 2017. No reply was filed.
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21 The Magistrate Judge filed his Report and Recommendation on November 8, 2017
22 recommending that Movant's Motion to Vacate, Set Aside, or Correct Sentence be
23 denied. In the Report and Recommendation, the Magistrate Judge advised the parties that
24 they had fourteen days from the date of service of a copy of the Report and
25 Recommendation within which to file specific written objections with the Court. The
26 time to file such objections has expired and no objections to the Report and
27 Recommendation have been filed.
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1 The Court finds itself in agreement with the Report and Recommendation of the
2 Magistrate Judge.

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4 **IT IS ORDERED** adopting the Report and Recommendation of the Magistrate
5 Judge as the Order of this Court.

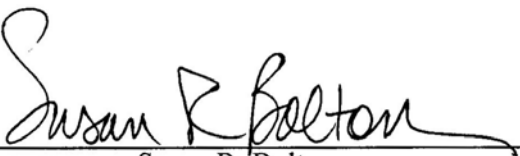
6 **IT IS FURTHER ORDERED** denying Movant's Motion to Vacate, Set Aside or
7 Correct Sentence by a Person in Federal Custody pursuant to 28 U.S.C. § 2255.

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

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

14 Dated this 5th day of December, 2017.

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Susan R. Bolton
United States District Judge