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

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Christian Eduardo Gaybor,

No. CV-16-04598-PHX-SMM

No. CR-01-01136-PHX-SMM

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Petitioner,

ORDER

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v.

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USA,

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Respondent.

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Pending before the Court is Petitioner's Amended Motion to Vacate, Set Aside, or Correct Sentence Under 28 U.S.C. § 2255. (Doc. 10.) The matter was referred to Magistrate Judge Deborah M. Fine for a Report and Recommendation. (Doc. 11.) On May 9, 2018, the Magistrate Judge filed a Report and Recommendation with this Court. (Doc. 19.) To date, no objections have been filed.

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STANDARD OF REVIEW

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The Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1)(C); see Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991). Parties have fourteen days from the service of a copy of the Magistrate's recommendation within which to file specific written objections to the Court. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72. Failure to object to a Magistrate Judge's recommendation relieves the Court of conducting de novo review of the Magistrate Judge's factual findings and waives all objections to those findings on appeal. See Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998). A failure to object to a

1 Magistrate Judge's conclusion "is a factor to be weighed in considering the propriety of
2 finding waiver of an issue on appeal." Id.

3 **DISCUSSION**

4 In reviewing the Magistrate Judge's Report and Recommendation, the Court finds
5 that it is exceedingly well written and organized and provides an extensive and thorough
6 analysis of the issues presented. Thus, having reviewed the Report and Recommendation
7 of the Magistrate Judge, and no Objections having been made by any party thereto, the
8 Court hereby incorporates and adopts the Magistrate Judge's thorough and well-reasoned
9 Report and Recommendation.

10 **CONCLUSION**


11 Accordingly, for the reasons set forth,

12 **IT IS HEREBY ORDERED** that the Court adopts the Report and
13 Recommendation of the Magistrate Judge. (Doc. 19.)

14 **IT IS FURTHER ORDERED** that the Motion to Vacate, Set Aside, or Correct
15 Sentence Under 28 U.S.C. § 2255 (Doc. 363 in CR-01-01136-PHX-SMM and Doc. 10 in
16 CV-16-04598-PHX-SMM) be **denied** and the civil action opened in connection with this
17 Motion (CV-16-04598-PHX-SMM) be **dismissed** with prejudice.

18 **IT IS FURTHER ORDERED** that a Certificate of Appealability be **denied**
19 because jurists of reason would not find the district court's assessment of the constitutional
20 claims debatable or wrong.

21 Dated this 19th day of September, 2018.

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25 Honorable Stephen M. McNamee
26 Senior United States District Judge
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