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2 NOT FOR PUBLICATION

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

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10 Orren Alven Davis,

11 Petitioner,

12 v.

13 State of Arizona, et al.,

14 Respondents.

No. CV-17-03685-PHX-DJH

**ORDER**

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16 This matter is before the Court on Petitioner's Amended Petition for Writ of Habeas  
17 Corpus pursuant to 28 U.S.C. § 2254 (Doc. 5) and the Report and Recommendation  
18 ("R&R") (Doc. 12) issued by United States Magistrate Judge John Z. Boyle on  
19 July 24, 2018. Petitioner's Amended Petition raises twelve grounds for relief. (Doc. 5).  
20 Judge Boyle concluded, however, that all twelve of the claims raised in the Amended  
21 Petition were unexhausted and procedurally defaulted. (Doc. 12 at 9). He further found  
22 that Petitioner had failed to demonstrate cause and prejudice to excuse the default. (*Id.*)  
23 As a result, Judge Boyle recommends denying and dismissing the Amended Petition with  
24 prejudice. (*Id.*)

25 Judge Boyle advised the parties that they had fourteen days to file objections and  
26 that the failure to timely do so "may result in the acceptance of the Report and  
27 Recommendation by the district court without further review. (Doc. 12 at 9) (citing *United*  
28 *States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)). Petitioner has not filed an

1 objection and the time to do so has expired. Respondents have also not filed an objection.  
2 Absent any objections, the Court is not required to review the findings and  
3 recommendations in the R&R. *See Thomas v. Arn*, 474 U.S. 140, 149 (1989) (noting that  
4 the relevant provision of the Federal Magistrates Act, 28 U.S.C. § 636(b)(1), “does not on  
5 its face require any review at all . . . of any issue that is not the subject of an objection.”);  
6 *Reyna-Tapia*, 328 F.3d at 1121 (same); Fed.R.Civ.P. 72(b)(3) (“The district judge must  
7 determine de novo any part of the magistrate judge’s disposition that has been properly  
8 objected to.”).

9         Nonetheless, the Court has reviewed Judge Boyle’s comprehensive and well-  
10 reasoned R&R and agrees with its findings and recommendations. The Court will,  
11 therefore, accept the R&R and dismiss the Petition. *See* 28 U.S.C. § 636(b)(1) (“A judge  
12 of the court may accept, reject, or modify, in whole or in part, the findings or  
13 recommendations made by the magistrate judge.”); Fed.R.Civ.P. 72(b)(3) (same).

14         Accordingly,

15         **IT IS ORDERED** that Magistrate Judge Boyle’s R&R (Doc. 12) is **accepted** and  
16 **adopted** as the order of this Court.

17         **IT IS FURTHER ORDERED** that the Amended Petition for Writ of Habeas  
18 Corpus pursuant to 28 U.S.C. § 2254 (Doc. 5) is **denied** and **dismissed with prejudice**.

19         **IT IS FURTHER ORDERED** that pursuant to Rule 11(a) of the Rules Governing  
20 Section 2254 Cases, a Certificate of Appealability and leave to proceed *in forma pauperis*  
21 on appeal are **denied** because dismissal of the Petition is justified by a plain procedural bar  
22 and jurists of reason would not find the procedural ruling debatable.

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**IT IS FURTHER ORDERED** that the Clerk of Court shall terminate this action and enter judgment accordingly.

Dated this 28th day of March, 2019.

  
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Honorable Diane J. Humetewa  
United States District Judge