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

Rick Novak,
Petitioner,
v.
Department of Homeland Security, et al.,
Respondents.

No. CV-18-01330-PHX-RCC (BGM)
ORDER

On May 23, 2018, Petitioner Rick Novak filed an Amended Petition for a Writ of Habeas Corpus Under § 2241 (Doc. 8.) Petitioner also filed a Request for Custody Hearing or Conditional Parole (Doc. 28), a Motion for Temporary Restraining Order and Preliminary Injunction (Doc. 33), and a Renewed Motion for Leave to File a Second Amended Complaint (Doc. 39). On August 9, 2019, Magistrate Judge Bruce G. Macdonald issued a Report and Recommendation (R&R) in which he recommended that this Court deny Novak’s Petition, his renewed Motion for Leave, and his Motion for Temporary Restraining Order, and find moot Petitioner’s Request of Custody Hearing. (Doc. 43.) No objections to the Magistrate Judge’s R&R have been filed.

REPORT AND RECOMMENDATION: STANDARD OF REVIEW

The standard the District Court uses when reviewing a magistrate judge’s R&R is dependent upon whether a party objects: where there is no objection to a magistrate’s factual or legal determinations, the District Court need not review the decision “under a de novo or any other standard.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). “[W]hile the

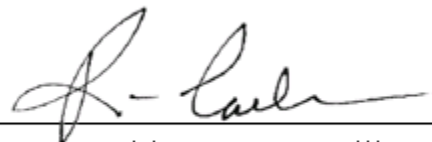
1 statute does not require the judge to review an issue de novo if no objections are filed, it
2 does not preclude further review by the district judge, sua sponte or at the request of a
3 party, under a de novo or any other standard.” Id. at 154.

4 No objections have been filed. The Court is aware that the R&R was returned as
5 undeliverable, however, the onus is on Plaintiff to provide a current mailing address.
6 (Doc. 9 at 5.) The Court finds the Magistrate Judge’s recommendations well-reasoned
7 and will adopt the R&R.

8 Accordingly, IT IS ORDERED:

- 9 1) Magistrate Judge Macdonald’s Report and Recommendation is ADOPTED. (Doc.
10 43.)
- 11 2) Petitioner Rick Novak’s Petition for a Writ of Habeas Corpus Under § 2241 is
12 DENIED. (Doc. 8.)
- 13 3) Petitioner’s Motion for Temporary Restraining Order and Preliminary Injunction
14 (Doc. 33) and a Renewed Motion for Leave to File a Second Amended Complaint
15 (Doc. 39) are DENIED.
- 16 4) Petitioner’s Request for Custody Hearing or Conditional Parole is DENIED AS
17 MOOT. (Doc. 28.)
- 18 5) Pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, the Court will
19 not issue a certificate of appealability because reasonable persons could not
20 “debate whether (or, for that matter, agree that) the petition should have been
21 resolved in a different manner or that the issues presented were adequate to
22 deserve encouragement to proceed further.” See *Slack v. McDaniel*, 529 U.S. 473,
23 484 (2000) (internal quotations omitted).
- 24 6) The Clerk of Court shall enter judgment accordingly and close the case file in this
25 matter.

26 Dated this 11th day of September, 2019.

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Honorable Raner C. Collins
Senior United States District Judge