

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Ronald Francis Greene,
Petitioner,
v.
Charles L. Ryan, et al.,
Respondents.

No. CV-18-03261-PHX-NVW (JZB)

**ORDER
and
DENIAL OF CERTIFICATE OF
APPEALABILITY AND IN FORMA
PAUPERIS STATUS**

Pending before the court is the Report and Recommendation (“R&R”) of Magistrate Judge Boyle (Doc. 15) regarding petitioner’s Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1). The R&R recommends that the Petition be denied and dismissed with prejudice. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at 6 (citing Rule 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(b) and 72), Federal Rules of Civil Procedure; *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc)). No objections were filed.

Because the parties did not file objections, the court need not review any of the Magistrate Judge’s determinations on dispositive matters. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (“[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is not the subject of an objection.”). The absence of a timely objection also means that error may not be assigned on appeal to any defect in the rulings of the Magistrate Judge on any non-dispositive matters. Fed. R. Civ. P. 72(a) (“A party may serve and file objections to the order within 14 days after being served with a

1 copy [of the magistrate's order]. A party may not assign as error a defect in the order not
2 timely objected to.”); *Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996);
3 *Phillips v. GMC*, 289 F.3d 1117, 1120-21 (9th Cir. 2002).


4 Notwithstanding the absence of an objection, the court has reviewed the R&R and
5 finds that it is well taken. The court will accept the R&R and dismiss the Petition. See 28
6 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole
7 or in part, the findings or recommendations made by the magistrate”).

8 IT IS THEREFORE ORDERED that the Report and Recommendation of the
9 Magistrate Judge (Doc.15) is accepted.

10 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying
11 and dismissing petitioner's Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C.
12 § 2254 (Doc. 1) with prejudice. The Clerk shall terminate this action.

13 A request for a certificate of appealability will be denied because the dismissal of
14 the Petition is justified by a plain procedural bar and reasonable jurists would not find the
15 ruling debatable, and because Petitioner has not made a substantial showing of the denial
16 of a constitutional right.

17 Dated: October 7, 2019.

18 
19 _____
20 Neil V. Wake
21 Senior United States District Judge
22
23
24
25
26
27
28