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

Christopher Gale Underwood,	)	No. CV 08-8049 PCT-NVW (LOA)
	)	
Petitioner,	)	<b>ORDER</b>
	)	
v.	)	
	)	
E. W. Morris, et al.,	)	
	)	
Respondents.	)	

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Pending before the court is the Report and Recommendation (“R&R”) of Magistrate Judge Anderson (Doc. # 16) regarding petitioner’s Amended Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. # 8). The R&R recommends that the Petition be denied and dismissed as premature and Petitioner be allowed to dismiss his petition.

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) (“Within 10 days after being served with a copy of the magistrate judge’s order, a party may serve and file objections to the order; a party may not thereafter assign as error a defect in

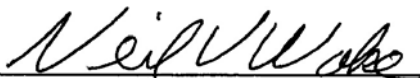
1 the magistrate judge's order to which objection was not timely made."); *Simpson v. Lear*  
2 *Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996); *Philipps v. GMC*, 289 F.3d 1117, 1120-  
3 21 (9th Cir. 2002).

4 The Court has reviewed the R&R and finds that it is well taken. The court will accept  
5 the R&R and dismiss the Petition without prejudice. *See* 28 U.S.C. § 636(b)(1) (stating that  
6 the district court "may accept, reject, or modify, in whole or in part, the findings or  
7 recommendations made by the magistrate").

8 IT IS THEREFORE ORDERED that Report and Recommendation of the Magistrate  
9 Judge (Doc. # 16) is accepted.

10 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment dismissing  
11 petitioner's Amended Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254  
12 (Doc. # 8) without prejudice. The Clerk shall terminate this action.

13 DATED this 19<sup>th</sup> day of December, 2008.

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Neil V. Wake  
United States District Judge

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