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

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Timothy J. Casner,

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No. CV 10-8100-PCT-NVW (MHB)

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Petitioner,

)

**ORDER**

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v.

)

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

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William Gaspar, et al.,

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Respondents.

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Pending before the Court is the Report and Recommendation (“R&R”) of

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Magistrate Judge Michelle H. Burns (Doc. 24) regarding petitioner’s Amended Petition

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for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 5). The R&R

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recommends that the Petition be denied and dismissed with prejudice. The Magistrate

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Judge advised the parties that they had fourteen days to file objections to the R&R.

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(R&R at 19 (citing 28 U.S.C. § 636(b)). Petitioner filed objections on June 1, 2011.

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(Doc. 25.)

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The Court has considered the objections and reviewed the Report and

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Recommendation de novo. *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that

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the court must make a *de novo* determination of those portions of the Report and

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Recommendation to which specific objections are made). The Court agrees with the

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Magistrate Judge’s determinations, accepts the recommended decision within the

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meaning of Rule 72(b), Fed. R. Civ. P., and overrules Petitioner’s objections. *See* 28

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U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole


1 or in part, the findings or recommendations made by the magistrate”).

2 IT IS THEREFORE ORDERED that Report and Recommendation of the  
3 Magistrate Judge (Doc. 24) is accepted.

4 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying  
5 and dismissing petitioner’s Amended Petition for Writ of Habeas Corpus filed pursuant to  
6 28 U.S.C. § 2254 (Doc. 5) with prejudice. The Clerk shall terminate this action.

7 Having considered the issuance of a Certificate of Appealability from the order  
8 denying Petitioner’s Amended Petition for a Writ of Habeas Corpus, the Court FINDS:  
9 Certificate of Appealability and leave to proceed *in forma pauperis* on appeal are **Denied**.  
10 Petitioner has not made a substantial showing of the denial of a constitutional right.

11 DATED this 20<sup>th</sup> day of June, 2011.

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Neil V. Wake  
United States District Judge

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