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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

United States of America,  
Plaintiff/Respondent,  
vs.  
Lonnie Ben,  
Defendant/Movant.

No. CV-14-08131-PCT-NVW (ESW)  
CR-12-08250-PCT-NVW

**ORDER**

Pending before the court is the Report and Recommendation (“R&R”) of Magistrate Judge Eileen S. Willett (Doc. 19) regarding Movant’s Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 (Doc. 1). The R&R recommends that the Motion be dismissed with prejudice. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at 12 (citing 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72). 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.  
3 1996); *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 Motion to  
6 Vacate with prejudice. *See* 28 U.S.C. § 636(b)(1) (stating that the district court “may  
7 accept, reject, or modify, in whole or in part, the findings or recommendations made by  
8 the magistrate”).

9 IT IS THEREFORE ORDERED that Report and Recommendation of the  
10 Magistrate Judge (Doc.19) is accepted.

11 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment  
12 dismissing Movant’s Motion to Vacate, Set Aside or Correct Sentence pursuant to 28  
13 U.S.C. § 2255 (Doc. 1) with prejudice. The Clerk shall terminate this action.

14 Having considered the issuance of a Certificate of Appealability from the order  
15 denying Petitioner’s Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct  
16 Sentence by Person in Federal Custody, the Court FINDS: that a Certificate of  
17 Appealability and leave to proceed in forma pauperis be DENIED because Movant has  
18 not made a substantial showing of the denial of a constitutional right.

19 Dated this 8th day of October, 2015.

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23 Neil V. Wake  
24 United States District Judge  
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