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

Monta Joe Evans,

Petitioner,

v.

Charles Ryan, et al.,

Respondents.

No. CV-16-08067-PHX-DLR

ORDER

Before the Court is the Report and Recommendation (R&R) of Magistrate Judge Bridget S. Bade, (Doc. 16), 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. (Doc. 16 at 4 (citing 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72).) Petitioner filed his Objection to Report and Recommendation on June 24, 2016. (Doc. 17.)

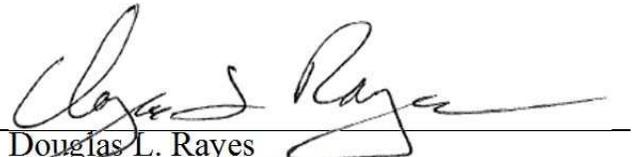
The Court has considered the objections and reviewed the R&R de novo. *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that the court must make a de novo determination of those portions of the R&R to which specific objections are made). The Court agrees with the Magistrate Judge's determinations, accepts the recommended decision within the meaning of Rule 72(b), and overrules Petitioner's objections. *See* 28 U.S.C. § 636(b)(1) (stating that the district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate"). Petitioner has

1 failed to show that the state court has refused, or will refuse to rule on his Rule 32,
2 Petition for Post-Conviction Relief, should he file one. Petitioner has failed to show any
3 factual or legal basis that failure to review his writ of habeas corpus will result in a
4 fundamental miscarriage of justice. Petitioner has failed to establish that he is entitled to
5 the appointment of counsel.

6 **IT IS ORDERED** that the Report and Recommendation of the Magistrate Judge,
7 (Doc.16), is **ACCEPTED**. Having considered the issuance of a Certificate of
8 Appealability from the order denying Petitioner's Petition for a Writ of Habeas Corpus, a
9 Certificate of Appealability and leave to proceed in forma pauperis on appeal are
10 **DENIED**. The Clerk of the Court shall enter judgment denying and dismissing
11 Petitioner's Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254, (Doc.
12 1), with prejudice, and shall terminate this action.

13 Dated this 12th day of August, 2016.

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Douglas L. Rayes
United States District Judge