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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Harry McCabe, Sr.,

10 Petitioner,

11 v.

12 USA,

13 Respondent.
14

No. CV-16-08131-PCT-JAT (ESW)

ORDER

15 Pending before the Court is Respondent's appeal (Doc. 13) of the Magistrate
16 Judge's denial (Doc. 12) of the motion to stay this case.

17 When a Magistrate Judge issues a pretrial order, this Court may reverse the order
18 "where it has been shown that the magistrate's order is clearly erroneous or contrary to
19 law." 28 U.S.C. § 636(b)(1)(A); *Barten v. State Farm Mut. Auto. Ins. Co.*, No. CZV-12-
20 0399-TUC-CKJ, 2014 U.S. Dist. LEXIS 133569, at *10 (D. Ariz. Sept. 23, 2014)
21 (quoting *Doe v. Kamehameha Schools/Bernice Pauahi Bishop Estate*, 596 F.3d 1036,
22 1041 (9th Cir. 2010)). The Court will overturn a Magistrate Judge's decision only if it is
23 the result of "clear error." *Maisonville v. F2 America, Inc.*, 902 F.2d 746, 747 (9th Cir.
24 1990) (citations omitted). Under this standard of review, the Magistrate Judge's decision
25 is "not subject to de novo determination," and the Court "may not simply substitute its
26 judgment for that of the deciding court." *Grimes v. City and Cnty. of San Francisco*, 951
27 F.2d 236, 241 (9th Cir. 1991). In order to find clear error, the Court must have a
28 "definite and firm conviction that a mistake has been committed." *Easley v. Cromartie*,

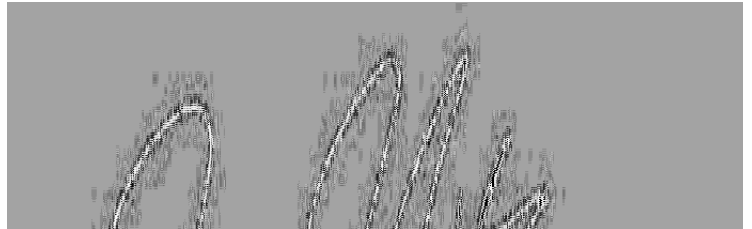
1 532 U.S. 234, 242 (2001).¹

2 Having reviewed the record, including Petitioner's response (Doc. 15) to
3 Respondent's appeal (Doc. 13), this Court cannot conclude that the Magistrate Judge
4 committed clear error in denying the stay.² Accordingly,

5 **IT IS ORDERED** that the Magistrate Judge's Order (Doc. 12) is affirmed. The
6 appeal (Doc. 13) is denied.

7 Dated this 2nd day of February, 2017.

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26 ¹ The Court notes that in the appeal (Doc. 13 at 4), Respondent appears to apply
27 the legal standard for objections to a Report and Recommendation. However, that legal
28 standard does not apply to appeals of Magistrate Judge's orders.

² This conclusion is true notwithstanding the fact that this Court might reach a
different conclusion if the Court were reviewing the motion to stay de novo. *See Grant v.*
USA, CV 16-2057-PHX-JAT (D. Ariz. October 31, 2016).