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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 United States of America,

13 Respondent.
14

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

ORDER

15 Pending before the Court is Petitioner's motion to lift the stay in this case. (Doc.
16 41). Magistrate Judge Willett issue a Report and Recommendation ("R&R")
17 recommending that the motion to lift the stay be denied. (Doc. 42). Specifically, the R&R
18 recommends that the stay be kept in place until three cases are decided: Walker v. United
19 States, United States v. Orona and United States v. Begay. (Id. at 5). Neither party has
20 filed objections to the R&R.

21 This Court "may accept, reject, or modify, in whole or in part, the findings or
22 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). It is "clear that
23 the district judge must review the magistrate judge's findings and recommendations de
24 novo if objection is made, but not otherwise." United States v. Reyna-Tapia, 328 F.3d
25 1114, 1121 (9th Cir. 2003) (en banc) (emphasis in original); Schmidt v. Johnstone, 263
26 F.Supp.2d 1219, 1226 (D. Ariz. 2003) ("Following Reyna-Tapia, this Court concludes that
27 de novo review of factual and legal issues is required if objections are made, 'but not
28 otherwise.'").

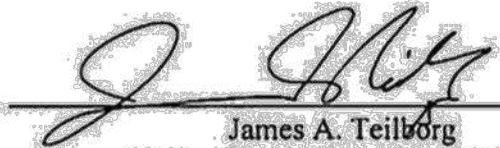
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Because there are no objections, the Court will accept the R&R. Accordingly,
IT IS ORDERED that the R&R (Doc. 42) is accepted.

IT IS FURTHER ORDERED that the motion to lift the stay (Doc. 41) is denied.

IT IS FURTHER ORDERED that, within 14 days of each of the decisions in Walker v. United States, United States v. Orona and United States v. Begay, the parties shall file a joint status report. The third such status report must move to lift the stay. This order is without prejudice to either party moving to lift the stay, if appropriate, before all three of the foregoing cases are decided.

Dated this 25th day of March, 2020.



James A. Teilborg
Senior United States District Judge