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

Derek Michael Dewey,
Petitioner,
v.
USA,
Respondent.

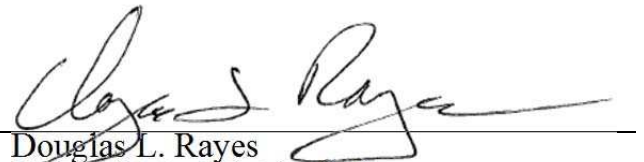
No. CV-16-08293-PCT-DLR
ORDER

Before the Court are Petitioner Derek Michael Dewey’s Motion to Vacate, Set Aside, or Correct Sentence (Doc. 10), Respondent’s Motion to Dismiss (Doc. 4), and United States Magistrate Judge David K. Duncan’s Report and Recommendation (“R&R”) (Doc. 15). The R&R recommends that the Court deny Petitioner’s motion, grant Respondent’s motion, and deny a Certificate of Appealability and leave to proceed in forma pauperis on appeal. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R and that failure to file timely objections could be considered a waiver of the right to obtain review of the R&R. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Neither party filed objections, which relieves the Court of its obligation to review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *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.”); Fed. R. Civ. P. 72(b)(3) (“The district judge must determine de novo any part of the magistrate

1 judge's disposition that has been properly objected to."). The Court has nonetheless
2 reviewed the R&R and finds that it is well-taken. The Court will accept the R&R in its
3 entirety. *See* 28 U.S.C. § 636(b)(1) (stating that the district court "may accept, reject, or
4 modify, in whole or in part, the findings or recommendations made by the magistrate");
5 Fed. R. Civ. P. 72(b)(3) ("The district judge may accept, reject, or modify the
6 recommended disposition; receive further evidence; or return the matter to the magistrate
7 judge with instructions.").

8 **IT IS ORDERED** that Magistrate Judge Duncan's R&R (Doc. 15) is
9 **ACCEPTED**. Petitioner's Motion to Vacate, Set Aside, or Correct Sentence (Doc. 10) is
10 **DENIED**. Respondent's Motion to Dismiss (Doc. 4) is **GRANTED**. A Certificate of
11 Appealability and leave to proceed in forma pauperis on appeal are **DENIED** because
12 Petitioner has not made a substantial showing of the denial of a constitutional right. The
13 Clerk of the Court shall terminate this case.

14 Dated this 30th day of July, 2018.

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19 Douglas L. Rayes
20 United States District Judge
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