

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Timothy Yazzie,
Movant/Defendant,
vs.
United States of America,
Respondent/Plaintiff.

No. CV-19-08332-PCT-NVW (JZB)
CR-11-08086-PCT-NVW

ORDER

Pending before the court is the Report and Recommendation (“R&R”) of Magistrate Judge John Z. Boyle (Doc. 16) regarding Movant’s Amended Motion for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2255, seeking to vacate, set aside, or correct a sentence imposed by the court. (Doc. 6). The R&R recommends that the Motion be denied and dismissed with prejudice. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R. (R&R at 7 (citing 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(b) and 72). Petitioner filed objections on August 31, 2020 (Doc. 17).

The Court has considered the objections and reviewed the Report and Recommendation 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 Report and Recommendation 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), Fed. R. Civ. P., 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”).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS THEREFORE ORDERED that Report and Recommendation of the Magistrate Judge (Doc. 16) is accepted.

IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying Movant's Amended Motion for Writ of Habeas Corpus to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255 (Doc. 6). The Clerk shall terminate this action.

Any request for a certificate of appealability is denied because the dismissal of the Amended Motion is justified by a plain procedural bar and reasonable jurists would not find the ruling debatable, and because Movant has not made a substantial showing of the denial of a constitutional right.

Dated this 9th day of September, 2020.



Neil V. Wake
Senior United States District Judge