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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Serge Mezheritsky,

Petitioner,

vs.

Conrad Graber, Warden,

Respondent.

) No. CV 08-641-TUC-FRZ

) **ORDER**

Pending¹ before the Court is a Report and Recommendation issued by Magistrate Judge Estrada whereby he recommends denying Petitioner’s §2241 petition.² As thoroughly explained by Magistrate Judge Estrada and as dictated by controlling authority, Petitioner is not entitled to receive any credit for time spent in custody between the date of his first sentence (i.e., January 13, 2003) and the date of his second sentence (i.e., March 10, 2003). As such, Petitioner’s objections are rejected and his §2241 petition must be denied.

Accordingly, IT IS HEREBY ORDERED as follows:

(1) Magistrate Judge Estrada’s Report and Recommendation (Doc. 12) is accepted and

¹The Court notes that former Warden David Duncan of FCI Stafford is dismissed and current Warden (Conrad Graber) is substituted in his place; this dismissal and substitution is reflected in the caption above. *See Blango v. Thornburgh*, 942 F.2d 1487 (10th Cir. 1991).

²The Court reviews de novo the objected-to portions of the Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The Court reviews for clear error the unobjected-to portions of the Report and Recommendation. *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999); *see also Conley v. Crabtree*, 14 F. Supp. 2d 1203, 1204 (D. Or. 1998).

1 adopted.

2 (2) Petitioner's §2241 petition is denied and dismissed with prejudice.

3 (3) The Clerk of the Court shall enter judgment accordingly and close the file in this case.

4 DATED this 24th day of September, 2010.

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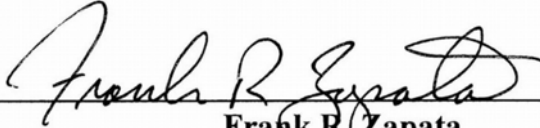
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Frank R. Zapata
Senior United States District Judge