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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Alfonso Fragoso,)	No. 09-CV-239-TUC-AWT
Petitioner,)	ORDER
vs.)	
Charles Riening, et al.,)	
Respondents.)	

On April 14, 2010, Magistrate Judge Estrada issued a Report and Recommendation (R&R) (Doc. 8) in which he recommended that the Court deny part of the petition and dismiss the remainder of Petitioner’s Petition under 28 U.S.C. § 2254 for a Writ of Habeas Corpus by a Person in State Custody. The Petitioner did not object to the Report and Recommendation.

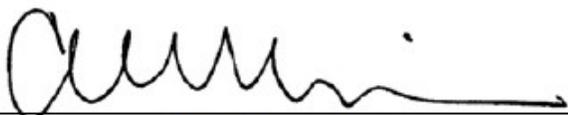
Under 28 U.S.C. § 636(b)(1), this Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” Although this Court is not required to review the Magistrate Judge’s R&R, because there were no objections to the R&R, this Court has, nonetheless, reviewed the magistrate judge’s R&R. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (discussing the standard of review for district courts when reviewing an R&R when no objections are made).

Accordingly, **IT IS ORDERED:**

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1. The Magistrate’s R&R (Doc. 8) is **adopted**.
2. The Ground I claim of due process violation is dismissed as procedurally defaulted.
3. Alternatively, the entire Ground I claim is dismissed as procedurally barred under the independent and adequate state ground doctrine.
4. All remaining claims—the Ground I claim based on *Leocal v. Ashcroft*, 543 U.S. 1 (2004), and the Ground II claim of ineffective assistance of counsel—are dismissed on the merits.
5. **The Clerk is directed to close the case and enter judgment denying in part and dismissing in part** Petitioner’s Petition for Writ of Habeas Corpus.

DATED this 20th day of April, 2011.



A. Wallace Tashima
United States Circuit Judge
Sitting by Designation