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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Victor Manuel Parra,)	No. CV 09-554-TUC-FRZ (DTF)
Petitioner,)	ORDER
vs.)	
Deputy Warden McCarville, et al.,)	
Respondents.)	

Before the Court for consideration is the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 filed by Petitioner Victor Manuel Parra, and the Report and Recommendation of the Magistrate Judge, recommending the dismissal of the Petition.

Petitioner was convicted by a jury in Cochise County Superior Court on August 16, 2007, of one count of knowingly possessing a narcotic drug for sale, a class 2 felony, and one count of marijuana for sale having a weight of less than two pounds, a class 4 felony. On September 13, 2007, the trial court sentenced Parra to the presumptive term of 15.75 years in prison on the first count and to the presumptive term of 10 years for the second count, to run concurrently.

The Petition for Writ of Habeas Corpus alleges three claims for relief.

This matter was referred to Magistrate Judge D. Thomas Ferraro, pursuant to the provisions of 28 U.S.C. § 636(b), Rule 72, Fed.R.Civ.P., and Local Rules 72.1 and 72.2 of the Rules of Practice of the United States District Court for the District of Arizona, for further proceedings and report and recommendation.

1 Magistrate Judge Ferraro issued his Report and Recommendation, recommending that
2 the Court enter an order dismissing the Petition for Writ of Habeas based on findings that
3 Claims 1(a) and 2 are without merit and Claims 1(b) and 3 are procedurally defaulted and
4 that Petitioner has not established cause and prejudice or a fundamental miscarriage of justice
5 to overcome the defaults.

6 The Report and Recommendation sets forth the factual and procedural history of
7 Petitioner's state court proceedings and convictions at issue and provides a thorough analysis
8 of the claims and legal standards at issue.

9 Petitioner filed his Objection to the Recommendation of Magistrate Ferraro pursuant
10 to 28 U.S.C. §636(b), challenging the substantive and procedural findings set forth therein.

11 The Court finds, after consideration of the matters presented and an independent
12 review of the record herein, including Petitioner's Objection to the Recommendation, that
13 the Report and Recommendation shall be adopted and the Petition denied in accordance with
14 the recommendations and findings set forth therein.

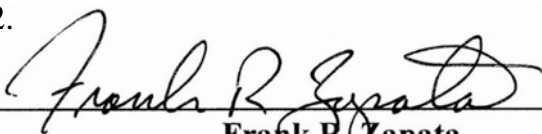
15 Based on the foregoing,

16 IT IS ORDERED that Magistrate Judge Ferraro's Report and Recommendation [Doc.
17 22] is hereby ACCEPTED AND ADOPTED as the findings of fact and conclusions of law
18 by this Court;

19 IT IS FURTHER ORDERED that the Petition for Writ of Habeas Corpus is DENIED
20 and this action is hereby DISMISSED;

21 IT IS FURTHER ORDERED that judgment be entered accordingly.

22
23 DATED this 9th day of July, 2012.

24 
25 **Frank R. Zapata**
26 **Senior United States District Judge**