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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

David J. Sterling,

Plaintiff,

vs.

Craig Apker, Complex Warden,

Defendant.

No. CV10-250-TUC-RCC

ORDER

Pending before the Court is a Report and Recommendation issued by Magistrate Judge Edmonds whereby she recommends denying Petitioner’s § 2241 petition.

The duties of the district court in connection with a R & R by a Magistrate Judge are set forth in Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). The district court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Fed.R.Civ.P. 72(b), 28 U.S.C. § 636(b)(1). Where the parties object to a R & R, “[a] judge of the [district] court shall make a de novo determination of those portions of the [R & R] to which an objection is made.” 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 149–150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985).

This district court's ruling is a de novo determination as to those portions of the R & R to which there are objections. 28 U.S.C. § 636(b)(1)(C); *Wang v. Masaitis*, 416 F.3d 992, 1000 n. 13 (9th Cir.2005); *United States v. Reyna–Tapia*, 328 F.3d 1114, 1121–22 (9th

1 Cir.2003) (en banc). To the extent that no objection has been made, arguments to the contrary
2 have been waived. Fed.R.Civ.P. 72; see 28 U.S.C. § 636(b)(1) (objections are waived if they
3 are not filed within fourteen days of service of the Report and Recommendation), *see also*
4 *McCall v. Andrus*, 628 F.2d 1185, 1187 (9th Cir.1980) (failure to object to Magistrate's
5 report waives right to do so on appeal); Advisory Committee Notes to Fed.R.Civ.P. 72 (citing
6 *Campbell v. United States Dist. Court*, 501 F.2d 196, 206 (9th Cir.1974) (when no timely
7 objection is filed, the court need only satisfy itself that there is no clear error on the face of
8 the record in order to accept the recommendation).

9 The parties were sent copies of the R & R and instructed that, pursuant to 28 U.S.C.
10 § 636(b)(1), they had 14 days to file written objections. Fed.R.Civ.P. 72. The Court has
11 considered the Objection filed by the Petitioner, the R&R, and the parties' documents
12 considered by the Magistrate Judge with respect to the Objections.

13 Having reviewed *de novo* the Petition, the Report and Recommendation of Magistrate
14 Judge Edmonds, and Petitioner's objections thereto, the Court finds that Petitioner's
15 objections lack merit. As thoroughly explained by Magistrate Judge Edmonds and as
16 dictated by controlling authority, Petitioner is not entitled to the relief he is seeking in his §
17 2241 petition. The Court agrees with the Magistrate Judge's determination. Upon review
18 of Petitioner's objections, he simply reiterates arguments raised in his initial petition and has
19 failed to point to any legitimate errors committed by the Magistrate Judge in her R&R. As
20 such, Petitioner's objections are rejected and his § 2241 petition must be denied.

21 Accordingly, **IT IS HEREBY ORDERED** that the Magistrate Judge's Report and
22 Recommendation (Doc. 27) is **accepted** and **adopted** by the Court.

23 **IT IS FURTHER ORDERED** that Petitioner's Petition for Writ of Habeas Corpus
24 (Doc. 1) is **denied** and **dismissed** with prejudice.

25 DATED this 18th day of July, 2011.

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Raner C. Collins
United States District Judge

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