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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Christopher Howard,

Petitioner,

vs.

Charles L. Ryan, et al.,

Respondents.

) No. CV 11-496 TUC-FRZ

) **ORDER**

Before the Court for consideration is the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 filed by Petitioner Christopher Howard, *pro se*, and the Report and Recommendation of the Magistrate Judge, recommending the Court, after an independent review of the record, dismiss the Petition with prejudice.

Petitioner entered into a plea agreement in July 2009 in the Superior Court for the State of Arizona, Pima County, where he pleaded guilty to one charge of fraudulent scheme and artifice and one charge of aggravating taking the identity of another. The trial court sentenced Petitioner to concurrent terms totaling 6.5 years.

The Arizona Court of Appeals granted review, but denied relief and adopted the decision of the trial court. Petitioner did not seek review of that decision by the Arizona Supreme Court.

Furthermore, the trial court summarily denied any post-conviction relief sought by Petitioner.

1           The present Petition for Writ of Habeas Corpus, filed on August 12, 2011, raises four  
2 grounds for relief, including a failure by Petitioner’s trial lawyer to investigate email and  
3 credit transactions, the introduction of evidence obtained as part of an unconstitutional search  
4 and seizure, statements obtained in violation of his right to counsel, and ineffective assistance  
5 of counsel by being urged to enter into a plea agreement, which are set forth in the Court’s  
6 initial screening order (Doc. 3) and the Report and Recommendation (Doc. 18).

7           This matter was referred to Magistrate Judge Jacqueline M. Rateau, pursuant to the  
8 provisions of 28 U.S.C. § 636(b), Rule 72, Fed.R.Civ.P., and Local Rules 72.1 and 72.2 of  
9 the Rules of Practice of the United States District Court for the District of Arizona, for  
10 further proceedings and Report and Recommendation.

11           Magistrate Judge Rateau issued her Report and Recommendation, recommending that  
12 the District Court dismiss the Petition for Writ of Habeas Corpus on the basis that Grounds  
13 One, Two, and Three are unavailable as grounds for habeas relief due to Petitioner’s signing  
14 of a written plea agreement. Furthermore, Petitioner has not properly exhausted the available  
15 state remedies for Grounds One, Two, and Three and the grounds are therefore procedurally  
16 barred from federal habeas review.

17           The Report and Recommendation also recommends that Ground Four be dismissed,  
18 setting forth the facts of Petitioner plea and a thorough analysis regarding the legal basis for  
19 determining the voluntariness of a guilty plea.

20           The Petitioner filed an Objection to the Report and Recommendation (Doc. 19)  
21 challenging the Magistrate Judge’s findings.

22           The Court finds, after consideration of all the matters presented and an independent  
23 review of the record herein, including the issues raised by the Petitioner in his objection, that  
24 the Petition for Writ of Habeas Corpus shall be denied and this action shall be dismissed in  
25 accordance with the Report and Recommendation. Accordingly,

26           **IT IS HEREBY ORDERED** that the Report and Recommendation (Doc. 18) is  
27 hereby **ACCEPTED AND ADOPTED** as the findings of fact and conclusions of law by this  
28 Court;

