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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Curt Andrew Ricci)	No. CV 12-066-TUC-FRZ
Petitioner,)	ORDER
vs.)	
Charles L. Ryan, et al.,)	
Respondents.)	

Before the Court for consideration is a Petition for Writ of Habeas Corpus brought pursuant to 28 U.S.C. § 2254, *pro se*, by Petitioner Curt Andrew Ricci, who is confined in the Arizona State Prison Complex - Lewis, and the Report and Recommendation of Magistrate Judge Bruce G. Macdonald, recommending that the District Court, after its independent review, deny the Petition as untimely.

Petitioner was convicted in Pima County Superior Court of sale of a narcotic, two counts of possession of drug paraphernalia, and possession of a narcotic drug for sale. He was sentenced to multiple terms of imprisonment, the longest of which is 9 years and 3 months.

Petitioner raises one ground for relief, claiming that his due process rights were violated when evidence relating to his state case was found missing and that he was not allowed to discuss during trial the issue of thefts from the police department.

Respondents filed a Limited Answer to Petition For Writ of Habeas Corpus, requesting the Petition be denied and dismissed with prejudice as untimely and procedurally

1 defaulted under the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA),
2 which mandates the procedures for federal habeas review.

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

7 The Report and Recommendation issued by Magistrate Judge Macdonald sets forth
8 a thorough factual and procedural analysis of Petitioner’s state proceedings and recommends
9 that the Petition be denied as untimely based on Petitioner having failed to show that he is
10 entitled to equitable tolling.

11 The Report and Recommendation further advised, in relevant part, that:

12 Pursuant to 28 U.S.C. § 636(b) and Rule 72(b)(2), any party may serve and file
13 written objections within fourteen (14) days after being served with a copy of
14 the Report and Recommendation. . . . If objections are not timely filed, they
may be deemed waived. . . .

15 No objections were filed.

16 The Court finds, after consideration of all matters presented and an independent
17 review of the record herein, including the Petition Under 28 U.S.C. § 2254 for a Writ of
18 Habeas Corpus (Doc. 1); Limited Answer to Petition for Writ of Habeas Corpus (Doc. 11);
19 and the Report and Recommendation (Doc 14), that the Petition for a Writ of Habeas Corpus
20 shall be denied and this action shall be dismissed in accordance with the Report and
21 Recommendation.

22 Based on the foregoing,

23 **IT IS HEREBY ORDERED** that the Report and Recommendation (Doc. 14) is
24 hereby **ACCEPTED** and **ADOPTED** as the findings of fact and conclusions of law by this
25 Court;

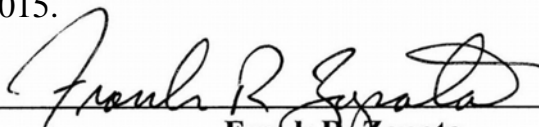
26 **IT IS FURTHER ORDERED** that the Petition for Writ of Habeas Corpus (Doc. 1)
27 is **DENIED** and this action is hereby **DISMISSED**;

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IT IS FURTHER ORDERED that the Clerk of Court is directed to enter judgment accordingly.

DATED this 31st day of March, 2015.



Frank R. Zapata
Senior United States District Judge