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

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Andre McRae,

No. CV-13-02103-TUC-RM

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Petitioner,

ORDER

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v.

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Louis Winn, Jr.,

13

Defendant.

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On November 3, 2016, Magistrate Judge Jacqueline M. Rateau issued a Report and Recommendation (Doc. 19) recommending that this Court deny Petitioner Andre McRae's Petition for a Writ of Habeus Corpus (Doc. 1) filed pursuant to 28 U.S.C. § 2241.¹ No objections to the Report and Recommendation were filed.

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¹ Petitioner filed a Motion in this matter regarding his non-receipt of a Scheduling Order for a separate matter in which he is Plaintiff. (See Doc. 21 (captioned 4:13-CV-02103-RM, but referring to the docket in 4:15-CV-439-RM).) Petitioner requested the Clerk send him a copy of the Order, which has already been done. Accordingly, the Court will deny Petitioner's Motion (Doc. 21).

1 F.3d 734, 739 (7th Cir. 1999) (“If no objection or only partial objection is made, the
2 district court judge reviews those unobjected portions for clear error.”); *Prior v. Ryan*,
3 CV 10-225-TUC-RCC, 2012 WL 1344286, at *1 (D. Ariz. Apr. 18, 2012) (reviewing for
4 clear error unobjected-to portions of Report and Recommendation).

5 The Court has reviewed Judge Rateau’s Report and Recommendation, the parties’
6 briefs, and the record. The Court finds no error in Judge Rateau’s Report and
7 Recommendation.

8 Because Petitioner is a federal prisoner whose petition can legitimately be brought
9 under § 2241, he is not required to obtain a certificate of appealability. *Harrison v.*
10 *Ollison*, 519 F.3d 952, 958 (9th Cir. 2008); *Herron v. Winn*, No. CV-13-00358-TUC-
11 JGZ, 2015 WL 5648001, at *1 (D. Ariz. 2015).

12 Accordingly,


13 **IT IS ORDERED** that Plaintiff’s Motion (Doc. 21) is **denied**.

14 **IT IS FURTHER ORDERED** that the Report and Recommendation (Doc. 19) is
15 **accepted and adopted in full**.

16 **IT IS FURTHER ORDERED** that the Petition Under 28 U.S.C. § 2241 for a
17 Writ of Habeus Corpus (Doc. 1) is **denied**, and this case is **dismissed with prejudice**.

18 The Clerk of Court is directed to enter judgment accordingly and close this case.

19 Dated this 27th day of January, 2017.

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24 Honorable Rosemary Marquez
25 United States District Judge
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