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**IN THE UNITED STATES DISTRICT COURT**

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**FOR THE DISTRICT OF ARIZONA**

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Miguel Daniel Leal,

No. CV-14-02271-TUC-JGZ

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Petitioner,

**ORDER**

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v.

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Charles L Ryan, et al.,

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Respondents.

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Pending before the Court is a Report and Recommendation issued by United States Magistrate Lynette C. Kimmins that recommends denying Petitioner's Habeas Petition filed pursuant to 28 U.S.C. §2254. (Doc. 36.) Petitioner filed an Objection to the R&R on June 26, 2017. (Doc. 37.) For the reasons stated herein, the Court will deny the Objection and adopt the R&R.

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When reviewing a Magistrate Judge's Report and Recommendation, this Court "shall make a de novo determination of those portions of the report ... to which objection is made," and "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C); *see also* *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991) (*citing* *Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983)). Failure to object to a Magistrate Judge's recommendation relieves the Court of conducting de novo review of the Magistrate Judge's factual findings; the Court then may decide the dispositive motion on the applicable law. *Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979) (*citing*

1 *Campbell v. United States Dist. Ct.*, 501 F.2d 196 (9th Cir. 1974)).

2 As thoroughly explained by Magistrate Judge Kimmins, the claims in Petitioner's  
3 petition are procedurally defaulted and/or without merit. As Petitioner's objections do  
4 not undermine the analysis and proper conclusion reached by Magistrate Judge Kimmins,  
5 Petitioner's objections are rejected and the Report and Recommendation is adopted.

6 Before Petitioner can appeal this Court's judgment, a certificate of appealability  
7 must issue. *See* Fed. R. App. P. 22(b)(1) (the applicant cannot take an appeal unless a  
8 circuit justice or a circuit or district judge issues a certificate of appealability under 28  
9 U.S.C. § 2253(c)). Additionally, 28 U.S.C. §2253(c)(2) provides that a certificate may  
10 issue only if the applicant has made a substantial showing of the denial of a constitutional  
11 right. In the certificate, the court must indicate which specific issues satisfy this showing.  
12 *See* 28 U.S.C. §2253(c)(3). A substantial showing is made when the resolution of an  
13 issue of appeal is debatable among reasonable jurists, if courts could resolve the issues  
14 differently, or if the issue deserves further proceedings. *See Slack v. McDaniel*, 529 U.S.  
15 473, 484-85 (2000). Upon review of the record in light of the standards for granting a  
16 certificate of appealability, the Court concludes that a certificate shall not issue as the  
17 resolution of the petition is not debatable among reasonable jurists and does not deserve  
18 further proceedings.

19 Finally, the Court notes that numerous filings by Petitioner violate Rule 5.2, Fed.  
20 R. Civ. P., in that they contain the name of an individual known to be a minor. The Court  
21 will order the Clerk of the Court to seal those filings.

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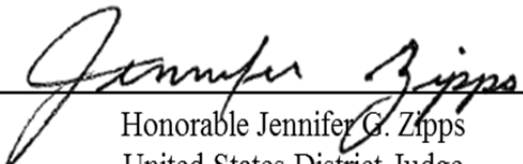
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Accordingly, IT IS HEREBY ORDERED as follows:

1. The Report and Recommendation (Doc. 36) is accepted and adopted;
2. Petitioner’s §2254 Petition (Doc. 1) is denied;
3. A Certificate of Appealability is denied and shall not issue;
4. The Clerk of the Court shall FILE UNDER SEAL Docs. 1, 20, 24 and 28; and
5. This case is dismissed with prejudice. The Clerk of the Court shall enter judgment accordingly and close the file in this matter.

Dated this 30th day of August, 2017.

  
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Honorable Jennifer G. Zipp  
United States District Judge