

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Mario Denane Fultz,

Petitioner,

v.

Filipe Martinez, Warden,

Respondent.

No. CV-14-02293-TUC-CKJ

ORDER

On, May 5, 2017, Magistrate Judge Bruce G. Macdonald issued a Report and Recommendation (Doc. 12) in which he recommended the Petition Under 28 U.S.C. § 2241 for a Writ of Habeas Corpus (Doc. 1) be denied. The Report and Recommendation notified the parties they had 14 days from the date of the Report and Recommendation to file any objections. No objections have been filed.

The standard of review that is applied to a magistrate judge’s report and recommendation is dependent upon whether a party files objections – the Court need not review portions of a report to which a party does not object. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). However, the Court must “determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” Fed.R.Civ.P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1). Nonetheless, “while the statute does not require the judge to review an issue de novo if no objections are filed, it does not preclude further review by the

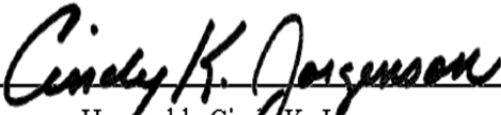
1 district judge, sua sponte or at the request of a party, under a de novo or any other
2 standard.” *Thomas*, 474 U.S. at 154.

3 The Court has reviewed and considered the pending petition (Doc. 1), the response
4 (Doc. 9), and the Report and Recommendation (Doc. 12).

5 Accordingly, after an independent review, IT IS ORDERED:

- 6 1. The Report and Recommendation (Doc. 50) is ADOPTED.
- 7 2. Filipe Martinez, Warden, shall be substituted as Respondent for Susan McClintock
8 pursuant to Rule 25(d) of the Federal Rules of Civil Procedure and Rule 43(c)(2)
9 of the Federal Rules of Appellate Procedure; and
- 10 3. Petitioner’s Petition Under 28 U.S.C. § 2241 for a Writ of Habeas Corpus by a
11 Person in Federal Custody (Doc. 1) is DENIED.
- 12 4. The Clerk of the Court shall enter judgment accordingly and close the case file in
13 this matter.

14 Dated this 14th day of June, 2017.

15
16
17 
18 Honorable Cindy K. Jorgenson
19 United States District Judge
20
21
22
23
24
25
26
27
28