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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Corey Lamont Holleman,

No. CV-15-00119-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 Jacqueline Rateau that recommends denying Petitioner's habeas petition filed pursuant to 28 U.S.C. § 2254. (Doc. 19.) As thoroughly explained by Magistrate Judge Rateau, the Petition for Writ of Habeas Corpus (doc. 1) is a successive petition, which does not allege either a new rule of constitutional law or newly discovered facts that establish actual innocence. No objection to the Report and Recommendation was filed by Petitioner.¹

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The Court has reviewed the record and concludes that Magistrate Judge Rateau's

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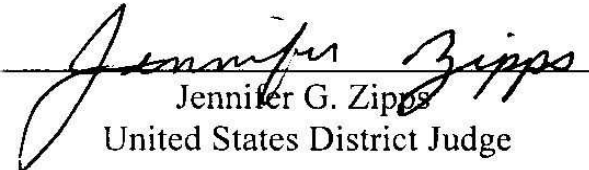
¹ The Court notes that Petitioner filed a surreply on the same day that the Magistrate Judge filed her Report and Recommendation. (Doc. 20.) In his surreply, Petitioner contends that he was not provided with the May 15, 2013 order dismissing his first petition with prejudice. Petitioner further contends that the first petition was dismissed for failure to exhaust state remedies, and was "without prejudice." The Court has reviewed the surreply, as well as the 2013 Order dismissing Defendant's previous petition, and concludes that the Court dismissed the petition with prejudice. (See docs. 18 and 22 in case No. 4:10-CV-00433-JGZ, *Holleman v. Hartsuck, et al.*) Accordingly, the arguments contained in Petitioner's surreply do not undermine the conclusion reached by the Magistrate Judge in the present Report and Recommendation.

1 recommendations are not clearly erroneous. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P.
2 72; *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999); *see also Conley*
3 *v. Crabtree*, 14 F.Supp.2d 1203, 1204 (D. Or. 1998).

4 Accordingly, IT IS HEREBY ORDERED as follows:

- 5 1. The Report and Recommendation (Doc. 19) is accepted and adopted;
- 6 2. Petitioner's §2254 Petition (Doc. 1) is denied and this case is dismissed
7 with prejudice;
- 8 3. A Certificate of Appealability is denied and shall not issue; and
- 9 4. The Clerk of the Court shall enter judgment accordingly and close the file
10 in this matter.

11 Dated this 2nd day of February, 2016.

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16 Jennifer G. Zipp
17 United States District Judge
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