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

Howard Ned McMonigal, III,
Petitioner,
v.
Charles L Ryan, et al.,
Respondents.

No. CV-15-00134-TUC-RCC
ORDER

Pending before the Court is Petitioner Howard Ned McMonigal, III’s Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 and Magistrate Judge D. Thomas Ferraro’s Report and Recommendation (R & R). Docs. 1 and 27. The parties did not file objections to Magistrate Judge Ferraro’s R & R. The Court accepts and adopts Magistrate Judge Ferraro’s R & R as the findings of fact and conclusions of law of this Court and denies Petitioner’s Writ.

I. Background

The factual and procedural background in this case is thoroughly detailed in Magistrate Judge Ferraro’s R & R. The Court fully incorporates the “Factual and Procedural Background” section of the R & R into this Order.

II. Discussion

The duties of the district court in connection with a R & R are set forth in Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). The district court may “accept, reject, or modify the recommended disposition; receive further evidence; or

1 return the matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b)(3); 28
2 U.S.C. § 636(b)(1).

3 Where the parties object to an R & R, “[a] judge of the [district] court shall make a
4 de novo determination of those portions of the [R & R] to which objection is made.” 28
5 U.S.C. § 636(b)(1); *see Thomas v. Arn*, 474 U.S. 140, 149-50 (1985). When no objection
6 is filed, the district court need not review the R & R de novo. *Wang v. Masaitis*, 416 F.3d
7 992, 1000 n. 13 (9th Cir.2005); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121-22
8 (9th Cir. 2003) (en banc). The Court will not disturb a magistrate judge’s order unless his
9 factual findings are clearly erroneous or his legal conclusions are contrary to law. 28
10 U.S.C. § 636(b)(1)(A). “[T]he magistrate judge’s decision...is entitled to great deference
11 by the district court.” *United States v. Abonce-Barrera*, 257 F.3d 959, 969 (9th Cir.
12 2001). A failure to raise an objection waives all objections to the magistrate judge’s
13 findings of fact. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998). A failure to object
14 to a Magistrate Judge’s conclusion “is a factor to be weighed in considering the propriety
15 of finding waiver of an issue on appeal.” *Id.* (internal citations omitted).

16 Here, the parties have not objected to the R & R, which relieves the Court of its
17 obligation to review. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.
18 2003); *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (“[Section 636(b)(1)] does not ...
19 require any review at all ... of any issue that is not the subject of an objection.”);
20 Fed.R.Civ.P. 72(b)(3) (“The district judge must determine de novo any part of the
21 magistrate judge's disposition that has been properly objected to.”). This Court considers
22 the R & R to be thorough and well-reasoned. After a thorough and de novo review of the
23 record, the Court adopts Magistrate Judge D. Thomas Ferraro’s R & R.

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Accordingly,

IT IS HEREBY ORDERED that Magistrate Judge D. Thomas Ferraro's Report and Recommendation is **ACCEPTED** and **ADOPTED** as the findings of fact and conclusions of law by this Court. Doc. 27

IT IS FURTHER ORDERED that Howard Ned McMonigal, III's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 is **dismissed**. Doc. 1.

Dated this 4th day of November, 2016.



Raner C. Collins
Chief United States District Judge