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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Gerardo Roberto Zepeda,)	No. CV 16-226-TUC-JAS (BPV)
Petitioner,)	ORDER
vs.)	
Charles L. Ryan, et al.)	
Respondents.)	

Pending before the Court is a Report and Recommendation issued by United States Magistrate Judge Velasco that recommends denying Petitioner’s habeas petition filed pursuant to 28 U.S.C. §2254.¹ As Petitioner’s objections do not undermine the analysis and proper conclusion reached by Magistrate Judge Velasco, Petitioner’s objections are rejected and the Report and Recommendation is adopted.

The Court has reviewed the record and concludes that Magistrate Judge Velasco’s recommendations are not clearly erroneous and they are adopted. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72; *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999); *Conley v. Crabtree*, 14 F. Supp. 2d 1203, 1204 (D. Or. 1998).

¹The Court reviews de novo the objected-to portions of the Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The Court reviews for clear error the unobjected-to portions of the Report and Recommendation. *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999); *see also Conley v. Crabtree*, 14 F. Supp. 2d 1203, 1204 (D. Or. 1998).

1 Before Petitioner can appeal this Court's judgment, a certificate of appealability must
2 issue. *See* 28 U.S.C. §2253(c) and Fed. R. App. P. 22(b)(1). The district court that rendered
3 a judgment denying the petition made pursuant to 28 U.S.C. §2254 must either issue a
4 certificate of appealability or state why a certificate should not issue. *See id.* Additionally,
5 28 U.S.C. §2253(c)(2) provides that a certificate may issue "only if the applicant has made
6 a substantial showing of the denial of a constitutional right." In the certificate, the court must
7 indicate which specific issues satisfy this showing. *See* 28 U.S.C. §2253(c)(3). A substantial
8 showing is made when the resolution of an issue of appeal is debatable among reasonable
9 jurists, if courts could resolve the issues differently, or if the issue deserves further
10 proceedings. *See Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). Upon review of the
11 record in light of the standards for granting a certificate of appealability, the Court concludes
12 that a certificate shall not issue as the resolution of the petition is not debatable among
13 reasonable jurists and does not deserve further proceedings.

14 Accordingly, IT IS HEREBY ORDERED as follows:

- 15 (1) The Report and Recommendation (Doc. 17) is accepted and adopted.
16 (2) Petitioner's §2254 habeas petition is denied and this case is dismissed with prejudice.
17 (3) A Certificate of Appealability is denied and shall not issue.
18 (4) The Clerk of the Court shall enter judgment and close the file in this case.

19 DATED this 16th day of July, 2018.

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James A. Soto
United States District Judge