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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 Williams Hayes, Jr.,) No. CV 16-00337-TUC-JAS (DTF)
9 Petitioner,) **ORDER**
10 vs.)
11 Charles Ryan, et. al.,)
12 Respondents.)
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15 Pending before the Court is a Report and Recommendation issued by United States
16 Magistrate Judge D. Thomas Ferraro that recommends denying Petitioner's habeas petition
17 filed pursuant to 28 U.S.C. §2254. A review of the record reflects that the parties have not
18 filed any objections to the Report and Recommendation and the time to file objections has
19 expired. As such, the Court will not consider any objections or new evidence.

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

24 Before Petitioner can appeal this Court's judgment, a certificate of appealability must
25 issue. *See* 28 U.S.C. §2253(c) and Fed. R. App. P. 22(b)(1). Federal Rule of Appellate
26 Procedure 22(b) requires the district court that rendered a judgment denying the petition
27 made pursuant to 28 U.S.C. §2254 to "either issue a certificate of appealability or state why
28 a certificate should not issue." Additionally, 28 U.S.C. §2253(c)(2) provides that a certificate

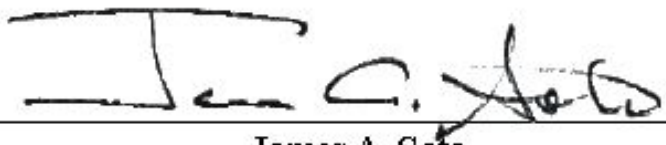
1 may issue "only if the applicant has made a substantial showing of the denial of a
2 constitutional right." In the certificate, the court must indicate which specific issues satisfy
3 this showing. *See* 28 U.S.C. §2253(c)(3). A substantial showing is made when the
4 resolution of an issue of appeal is debatable among reasonable jurists, if courts could resolve
5 the issues differently, or if the issue deserves further proceedings. *See Slack v. McDaniel*,
6 529 U.S. 473, 484-85 (2000). Upon review of the record in light of the standards for
7 granting a certificate of appealability, the Court concludes that a certificate shall not issue
8 as the resolution of the petition is not debatable among reasonable jurists and does not
9 deserve further proceedings.

10 Accordingly, IT IS HEREBY ORDERED as follows:

- 11 (1) The Report and Recommendation (Doc. 9) is accepted and adopted.
12 (2) Petitioner's §2254 habeas petition is denied and this case is dismissed with prejudice.
13 (3) A Certificate of Appealability is denied and shall not issue.
14 (4) The Clerk of the Court shall enter judgment and close the file in this case.

15 DATED this 21st day of December, 2017.

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James A. Soto
United States District Judge