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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Linzey Smith,)	No. CV 17-18-TUC-JAS (BPV)
Petitioner,)	ORDER
vs.)	
Felipe Martinez, Warden of FCT-Safford,)	
Respondent.)	

Pending before the Court is a Report and Recommendation issued by United States Magistrate Judge Velasco that recommends granting Petitioner’s Petition for a Writ of Habeas Corpus under 28 U.S.C. §2241. A review of the record reflects that the parties have not filed any objections to the Report and Recommendation and the time to file objections has expired. As such, the Court will not consider any objections or new evidence.

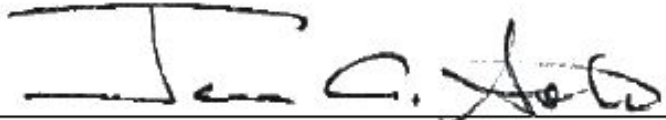
The Court has reviewed the record and concludes that Magistrate Judge Velasco’s recommendations are not clearly erroneous. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72; *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999); *Conley v. Crabtree*, 14 F. Supp. 2d 1203, 1204 (D. Or. 1998).

Accordingly, IT IS HEREBY ORDERED as follows:
(1) Magistrate Judge Velasco’s Report and Recommendation (Doc. 43) is accepted and adopted.

1 (2) Petitioner’s separate motion for release during the pendency of the habeas proceeding¹
2 (Doc. 34) is denied without prejudice.

3 (3) Petitioner’s Petition for a Writ of Habeas Corpus under 28 U.S.C. §2241 (Doc. 1) is
4 granted to the extent this matter is returned to the United States District Court for the Eastern
5 District of Washington for resentencing.²

6 DATED this 24th day of January, 2018.

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10 James A. Soto
11 United States District Judge
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25 _____
26 ¹To the extent Petitioner objects to not being immediately released, Petitioner’s
27 objection is denied.

28 ²Petitioner’s motion to summarily adopt the Report and Recommendation and for an
expedited ruling (Doc. 45) is granted only to the extent consistent with this Order.