IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

James Daniel Flores,
Petitioner,
v.
Charles L Ryan, et al.,
Respondents.

No. CV-17-00120-TUC-RCC

ORDER

Pending before the Court is a Petitioner James Flores's petition for writ of habeas corpus (doc. 1) and a Report and Recommendation ("R&R") prepared by Magistrate Judge Jacqueline M. Rateau. Doc. 31. In the R&R, Magistrate Judge Rateau recommends that this Court deny Petitioner's motion. For the following reasons, this Court shall accept and adopt the R&R and deny the petition.

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

Where the parties object to an R & R, "[a] judge of the [district] court shall make a de novo determination of those portions of the [R & R] to which objection is made." 28 U.S.C. § 636(b)(1); *see Thomas v. Arn*, 474 U.S. 140, 149-50 (1985). When no objection is filed, the district court need not review the R & R de novo. *Wang v. Masaitis*, 416 F.3d

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992, 1000 n. 13 (9th Cir.2005); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121-22 (9th Cir. 2003) (en banc). The Court will not disturb a magistrate judge's order unless the factual findings are clearly erroneous or the legal conclusions are contrary to law. 28 U.S.C. § 636(b)(1)(A). "[T]he magistrate judge's decision...is entitled to great deference by the district court." *United States v. Abonce-Barrera*, 257 F.3d 959, 969 (9th Cir. 2001).

Here, as Magistrate Judge Rateau discusses in detail, Petitioner's petition is untimely and not entitled to any tolling. Petitioner's objections do not change the fact that his deadline to appeal was November 2, 2014 and that he filed this petition on November 13, 2017.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's petition for writ of habeas corpus is denied. Doc. 1.

IT IS FURTHER ORDERED that the Report and Recommendation prepared by Magistrate Judge Rateau is accepted and adopted as the findings of fact and conclusions of law of this Court. Doc. 31.

IT IS FURTHER ORDERED that the Clerk of Court is directed to close the case.

IT IS FURTHER ORDERED that Respondents' motion to strike is granted. Doc. 30.

IT IS FURTHER ORDERED that Petitioner's notice of state's non-compliance with rules of the court is denied. Doc. 34.

Dated this 8th day of June, 2018.

Honorable Raner C. Collins Chief United States District Judge