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

Robert William Leighton,
Petitioner,
v.
Charles L Ryan, et al.,
Respondents.

No. CV-18-00058-TUC-JGZ (LAB)
ORDER

Pending before the Court is Petitioner’s Motion for Certificate of Appealability (Doc. 24). For the following reasons, the Court will deny Petitioner’s Motion.

By order dated November 13, 2018, the Court adopted in part Magistrate Judge Bowman’s Report and Recommendation dismissing the Petition as untimely. (Doc. 20 at 2.) The Court did not address the alternative grounds for dismissal. (*Id.*) The Court did deny a certificate of appealability. (*Id.* at 3–4.)

Petitioner requests a certificate of appealability with regard to the Magistrate Judge’s alternative findings. Petitioner asserts that “[t]he United States District Court Judge accepted the Report and Recommendation of the Magistrate without comment and offered no further substantive analysis of the petition.” (Doc. 24 at 2.) The Court will deny the Motion. Because this Court agreed with the Magistrate Judge that the Petition was untimely filed, it was not necessary to address the merits of the untimely petition as those issues were moot. (*See* Doc. 20 at 2.) Further, the Court previously addressed and

1 denied issuance of a certificate of appealability with regard to its ruling on timeliness.
2 Accordingly,

3 IT IS ORDERED that Petitioner's Motion for Certificate of Appealability is
4 DENIED as moot.

5 Dated this 4th day of January, 2019.

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8 
9 Honorable Jennifer G. Zipp
10 United States District Judge
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