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

Melvin Elem,  
Petitioner,  
v.  
Charles L Ryan, et al.,  
Respondents.

No. CV-18-00087-TUC-JGZ  
**ORDER**

Pending before the Court is Magistrate Judge Bruce G. McDonald’s Report and Recommendation recommending that the District Court deny Petitioner’s § 2254 Petition for Writ of Habeas Corpus. The parties have not filed any objections to the Report and Recommendation and the time to file objections has expired.

When reviewing a Magistrate Judge’s Report and Recommendation, this Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). “[T]he district judge must review the magistrate judge’s findings and recommendations de novo if objection is made, but not otherwise.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (emphasis omitted). District courts are not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985). See also 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72; *Reyna-Tapia*, 328 F.3d at 1121; *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003).

There being no objection to the Report and Recommendation, the Court will adopt

1 Judge McDonald’s recommendation to deny Petitioner’s § 2254 Petition for Writ of  
2 Habeas Corpus. Before Petitioner can appeal this Court’s judgment, a certificate of  
3 appealability (COA) must issue. *See* 28 U.S.C. §2253(c); Fed. R. App. P. 22(b)(1); Rule  
4 11(a) of the Rules Governing Section 2254 Cases. “The district court must issue or deny  
5 a certification of appealability when it enters a final order adverse to the applicant.” Rule  
6 11(a) of the Rules Governing Section 2254 Cases. Pursuant to 28 U.S.C. § 2253(c)(2), a  
7 COA may issue only when the petitioner “has made a substantial showing of the denial of  
8 a constitutional right.” The court must indicate which specific issues satisfy this showing.  
9 *See* 28 U.S.C. §2253(c)(3). With respect to claims rejected on the merits, a petitioner “must  
10 demonstrate that reasonable jurists would find the district court’s assessment of the  
11 constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).  
12 For procedural rulings, a COA will issue only if reasonable jurists could debate whether  
13 the petition states a valid claim of the denial of a constitutional right and whether the court’s  
14 procedural ruling was correct. *Id.* Upon review of the record in light of the standards for  
15 granting a certificate of appealability, the Court concludes that a certificate shall not issue,  
16 as the resolution of the petition is not debatable among reasonable jurists.

17 On February 19, 2020, prior to entry of this Court’s Order adopting the R&R,  
18 Petitioner filed Notice of an Interlocutory Appeal to the Ninth Circuit. Petitioner also  
19 subsequently filed a Motion Requesting a Certificate of Appealability. The Court will deny  
20 the motion for the reason stated above.

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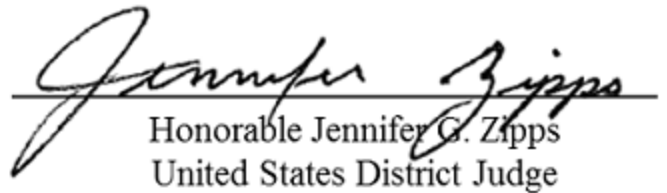
Accordingly,

IT IS ORDERED that:

1. Petitioner’s Motion Requesting a Certificate of Appealability (Doc. 31) is DENIED.
2. Magistrate Judge McDonald’s Report and Recommendation (Doc. 26) is ADOPTED.
3. Petitioner’s Petition for Writ of Habeas Corpus (Doc. 1) is DENIED.

The Clerk of the Court shall enter judgment accordingly and close the file in this action.

Dated this 9th day of April, 2020.

  
Honorable Jennifer G. Zipp  
United States District Judge