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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 William Lamonte Bodney,

10 Petitioner,

11 v.

12 David Shinn, et al.,

13 Respondents.
14

No. CV-20-00373-TUC-CKJ

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

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16 On September 14, 2021, Magistrate Judge Leslie A. Bowman issued a Report and
17 Recommendation (“R&R”) (Doc. 25) in which she recommended that the Court deny
18 William Lamonte Bodney’s Petition Under 18 U.S.C. § 2254 for Writ of Habeas Corpus
19 by a Person in State Custody (Doc. 1). The Magistrate Judge advised the parties that
20 written objections to the recommendation were to be filed within fourteen days of service
21 of a copy of the R&R under 28 U.S.C. § 636(b). *Id.* at 15. As of the date of this Order, no
22 objections have been filed.

23 **LEGAL STANDARD**

24 The Court “may accept, reject, or modify, in whole or in part, the findings or
25 recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party makes a
26 timely objection to a magistrate judge's recommendation, then the Court is required to
27 “make a de novo determination of those portions of the [report and recommendation] to
28 which objection is made.” *Id.* § 636(b)(1). The statute does not “require[] some lesser

1 review by the [Court] when no objections are filed.” *Thomas v. Arn*, 474 U.S. 140, 150
2 (1985). Rather, the Court is not required to conduct “any review at all . . . of any issue that
3 is not the subject of an objection.” *Id.* at 149.

4 The United States Court of Appeals for the Ninth Circuit has reiterated that a district
5 court is not required to review a magistrate judge's report and recommendation where no
6 objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th
7 Cir. 2003) (“[T]o the extent de novo review is required to satisfy Article III concerns, it
8 need not be exercised unless requested by the parties”). In other words, if there is no
9 objection to a magistrate judge's recommendation, then this Court may accept the
10 recommendation without review.

11 Petitioner has failed to file an objection to the Magistrate Judge’s R&R. While
12 Petitioner has not filed an objection, the Court has independently reviewed the R&R and
13 adopts the recommended findings and conclusions. The Court will accept the R&R and
14 dismiss the Petition.

15 **CERTIFICATE OF APPEALABILITY (“COA”)**

16 Before Petitioner can appeal the Court’s judgment, a certificate of
17 appealability (COA) must issue. 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22(b)(1); Rule
18 11(a) of the Rules Governing Section 2254 Cases (“The district court must issue or deny a
19 certification of appealability when it enters a final order adverse to the applicant.”) Under
20 28 U.S.C. § 2253(c)(2), a COA may issue only if the petitioner “has made a substantial
21 showing of the denial of a constitutional right.” The certificate must indicate which
22 specific issue or issues satisfy this showing. 28 U.S.C. § 2253(c)(3). With respect to
23 claims rejected on the merits, a petitioner “must demonstrate that reasonable jurists would
24 find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack*
25 *v. McDaniel*, 529 U.S. 473, 484 (2000). For procedural rulings, a COA will issue only if
26 reasonable jurists could debate whether the petition states a valid claim of the denial of a
27 constitutional right and the district court was correct in its procedural ruling. *Id.*

28 Upon review of the record, and in light of the aforementioned standards, the Court

1 concludes that a certificate shall not issue, as the resolution of the petition on its merits is
2 not debatable among reasonable jurists. Any future request for a COA must be addressed
3 to the United States Court of Appeals for the Ninth Circuit. *See* Fed. R. App. P. 22(b).
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5 **IT IS ORDERED:**

- 6 1. The Report and Recommendation (Doc. 25) is ADOPTED.
7 2. The Petition Under 18 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in
8 State Custody (Doc. 1) is DISMISSED.
9 3. A Certificate of Appealability shall not issue in this case.
10 4. The Clerk of the Court shall enter judgment accordingly and close this case.
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12 Dated this 11th day of January, 2022.
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16 Honorable Cindy K. Jorgenson
17 United States District Judge
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