

1 a factor to be weighed in considering the propriety of finding waiver of an issue on appeal.”

2 Id.

3 **DISCUSSION**

4 Having reviewed the Report and Recommendation of the Magistrate Judge, and no
5 Objections having been made by any party thereto, the Court hereby incorporates and adopts
6 the Magistrate Judge’s Report and Recommendation.

7 The standard for this Court to issue a Certificate of Appealability (“COA”) is whether
8 the applicant has “made a substantial showing of the denial of a constitutional right .” 28
9 U.S.C. § 2253(c)(2); Rule 11(a) of the Rules Governing Section 2254 Cases. “Where a
10 district court has rejected the constitutional claims on the merits, the showing required to
11 satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists
12 would find the district court’s assessment of the constitutional claims debatable or wrong.”
13 Slack v. McDaniel, 529 U.S. 473, 484 (2000). “When the district court denies a habeas
14 petition on procedural grounds without reaching the prisoner’s underlying constitutional
15 claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find
16 it debatable whether the petition states a valid claim of the denial of a constitutional right and
17 that jurists of reason would find it debatable whether the district court was correct in its
18 procedural ruling.” Id.

19 **CONCLUSION**

20 Accordingly, for the reasons set forth,

21 **IT IS HEREBY ORDERED** that the Court adopts the Report and Recommendation
22 of the Magistrate Judge. (Doc. 12.)

23 **IT IS FURTHER ORDERED** denying Petitioner’s request for an evidentiary
24 hearing. (Doc. 1.)

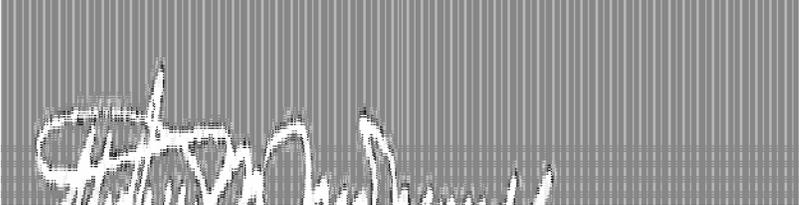
25 **IT IS FURTHER ORDERED** that Petitioner’s Petition for Writ of Habeas Corpus
26 is **DENIED AND DISMISSED WITH PREJUDICE**, terminating this case. (Doc. 1.) The
27 Clerk of the Court shall enter judgment accordingly.

28 **IT IS FURTHER ORDERED** that a Certificate of Appealability and leave to

1 proceed *in forma pauperis* on appeal are **DENIED** because Petitioner has not made a
2 substantial showing of the denial of a constitutional right.

3 DATED this 9th day of May, 2016.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A rectangular area of the document is redacted with a grey, textured background. Within this redacted area, the handwritten signature of the court clerk is visible in white ink.