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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PABLO HERNANDEZ,
Petitioner,
v.
TIMOTHY E. BUSBY, Warden,
Respondent.

Case No. CV 11-0160 DDP (JCG)
**ORDER ACCEPTING REPORT AND
RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE AND
DENYING CERTIFICATE OF
APPEALABILITY**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, the Magistrate Judge’s Report and Recommendation, Petitioner’s “Exhibit A,” which the Court construes as Petitioner’s Objections to the Report and Recommendation (“Objections”), and the remaining record, and has made a *de novo* determination.

The Objections fail to demonstrate that Petitioner exhausted his state court remedies by presenting his federal claims to the California Supreme Court, and lack merit for the reasons set forth in the Report and Recommendation.

Accordingly, IT IS ORDERED THAT:

1. The Report and Recommendation is approved and accepted;
2. Judgment be entered denying the Petition and dismissing this action without prejudice; and
3. The Clerk serve copies of this Order on the parties.

1 Additionally, for the reasons stated in the Report and Recommendation, the
2 Court finds that Petitioner has not shown that “jurists of reason would find it
3 debatable whether”: (1) “the petition states a valid claim of the denial of a
4 constitutional right”; and (2) “the district court was correct in its procedural
5 ruling.” *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Thus, the Court
6 declines to issue a certificate of appealability.

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9 DATED: May 30, 2012



HON. DEAN D. PREGERSON
UNITED STATES DISTRICT JUDGE