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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

MICHAEL LOUIS OVERTON,	)	No. CV 11-06052-R (VBK)
	)	
Petitioner,	)	ORDER ACCEPTING FINDINGS AND
	)	RECOMMENDATIONS OF UNITED STATES
v.	)	MAGISTRATE JUDGE
	)	
WARDEN,	)	
	)	
Respondent.	)	
_____	)	

Pursuant to 28 U.S.C. §636, the Court has reviewed the Petition for Writ of Habeas Corpus ("Petition"), the records and files herein, and the Report and Recommendation of the United States Magistrate Judge ("Report").

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1           **IT IS ORDERED** that: (1) the Court accepts the Findings and  
2 Recommendations of the Magistrate Judge, and (2) the Court declines to  
3 issue a Certificate of Appealability ("COA").<sup>1</sup>

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5 DATED: November 15, 2011

  
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6 MANUEL L. REAL  
7 UNITED STATES DISTRICT JUDGE  
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15           <sup>1</sup> Under 28 U.S.C. §2253(c)(2), a Certificate of Appealability  
16 may issue "only if the applicant has made a substantial showing of the  
17 denial of a constitutional right." Here, the Court has adopted the  
18 Magistrate Judge's finding and conclusion that the Petition is  
19 procedurally defective. Thus, the Court's determination of whether a  
20 Certificate of Appealability should issue here is governed by the  
21 Supreme Court's decision in Slack v. McDaniel, 529 U.S. 473, 120 S.  
22 Ct. 1595 (2000), where the Supreme Court held that, "[w]hen the  
23 district court denies a habeas petition on procedural grounds without  
24 reaching the prisoner's underlying constitutional claim, a COA should  
25 issue when the prisoner shows, at least, that jurists of reason would  
26 find it debatable whether the petition states a valid claim of the  
27 denial of a constitutional right and that jurists of reason would find  
28 it debatable whether the district court was correct in its procedural  
ruling." 529 U.S. at 484. As the Supreme Court further explained:

"Section 2253 mandates that both showings be made before the  
court of appeals may entertain the appeal. Each component  
of the § 2253(c) showing is part of a threshold inquiry, and  
a court may find that it can dispose of the application in  
a fair and prompt manner if it proceeds first to resolve the  
issue whose answer is more apparent from the record and  
arguments." Id. at 485.

Here, the Court finds that Petitioner has failed to make the  
requisite showing that "jurists of reason would find it debatable  
whether the district court was correct in its procedural ruling."