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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION


JACK W. DUNIGAN,	)	No. ED CV 04-00498-CAS (VBK)
	)	
Petitioner,	)	ORDER (1) ACCEPTING AND ADOPTING
	)	THE REPORT AND RECOMMENDATION OF
v.	)	THE UNITED STATES MAGISTRATE
	)	JUDGE, AND (2) DISMISSING THE
M. YARBOROUGH,	)	PETITION FOR WRIT OF HABEAS
	)	CORPUS
Respondent.	)	
_____	)	

Pursuant to 28 U.S.C. §636, the Court has made a de novo review of the Petition for Writ of Habeas Corpus ("Petition"), Respondent's Motion to Dismiss, Petitioner's Opposition to the Motion to Dismiss, Respondent's Answer, Petitioner's Traverse, all of the records 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 and adopts the Report  
2 and Recommendation, (2) the Court declines to issue a Certificate of  
3 Appealability ("COA");<sup>1</sup> and (3) Judgment be entered denying and  
4 dismissing the Petition with prejudice.

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6 DATED: 9/1/10

  
CHRISTINA A. SNYDER  
UNITED STATES DISTRICT JUDGE

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21           <sup>1</sup> Under 28 U.S.C. §2253(c)(2), a COA may issue "only if the  
22 applicant has made a substantial showing of the denial of a  
23 constitutional right." The Supreme Court has held that, to obtain a  
24 Certificate of Appealability under §2253(c), a habeas petitioner must  
25 show that "reasonable jurists could debate whether (or, for that  
26 matter, agree that) the petition should have been resolved in a  
27 different manner or that the issues presented were 'adequate to  
28 deserve encouragement to proceed further'." Slack v. McDaniel, 529  
U.S. 473, 483-84, 120 S.Ct. 1595 (2000)(internal quotation marks  
omitted); see also Miller-El v. Cockrell, 537 U.S. 322, 336, 123 S.Ct.  
1029 (2003). After review of Petitioner's contentions herein, this  
Court concludes that Petitioner has not made a substantial showing of  
the denial of a constitutional right, as is required to support the  
issuance of a COA.