1			
2			
3			
4			
5			
6			
7			
8			
9	UNITED ST	ATES DISTRICT COURT	
10			
11	EASTERN DISTRICT OF CALIFORNIA		
12	RAYMOND JACKSON,	) 1:11-cv-00074-OWW-JLT HC	
13	Petitioner,	) ) ORDER ADOPTING FINDINGS AND ) RECOMMENDATION (Doc. 6)	
14 15	v. ) ORDER SUMMARILY DISMISSING ) PETITION FOR WRIT OF HABEAS CO ) (Doc. 1)	) ) ORDER SUMMARILY DISMISSING ) PETITION FOR WRIT OF HABEAS CORPUS	
16			
17		) ORDER DIRECTING CLERK OF COURT ) TO ENTER JUDGMENT	
18			
19			
20	Petitioner is a state prisoner pro	occeeding pro se with a petition for writ of habeas corpus	
21	pursuant to 28 U.S.C. § 2254.		
22	On February 16, 2011, the Mag	gistrate Judge assigned to the case filed a Findings and	
23	Recommendation recommending the p	betition for writ of habeas corpus be summarily dismissed	

24 because the petition did not state grounds that would entitle Petitioner to relief under 28

25 U.S.C. § 2254. (Doc. 6). This Findings and Recommendation was served on all parties and

26 contained notice that any objections were to be filed within twenty days from the date of service

27 of that order. On March 4, 2011, Petitioner filed his objections. (Doc. 7).

28

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted

1	a de novo review of the case. Having carefully reviewed the entire file, including Petitioner's			
2	objections, the Court concludes that the Magistrate Judge's Findings and Recommendation is			
3	supported by the record and proper analysis.			
4	A state prisoner seeking a writ of habeas corpus has no absolute entitlement to appeal a			
5	district court's denial of his petition, and an appeal is only allowed in certain circumstances.			
6	Miller-El v. Cockrell, 537 U.S. 322, 335-336 (2003). The controlling statute in determining			
7	whether to issue a certificate of appealability is 28 U.S.C. § 2253, which provides as follows:			
8 9	(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.			
10	<ul><li>(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person</li></ul>			
11	charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.			
12	(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from			
13	(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or			
14	<ul><li>(B) the final order in a proceeding under section 2255.</li><li>(2) A certificate of appealability may issue under paragraph (1) only if the applicant has</li></ul>			
15	made a substantial showing of the denial of a constitutional right. (3) The certificate of appealability under paragraph (1) shall indicate which specific issue			
16	or issues satisfy the showing required by paragraph (2).			
17	Moreover, the Court declines to issue a certificate of appealability. If a court denied a			
18	petitioner's petition, the court may only issue a certificate of appealability when a petitioner			
19	makes a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). To			
20	make a substantial showing, the petitioner must establish that "reasonable jurists could debate			
21	whether (or, for that matter, agree that) the petition should have been resolved in a different			
22	manner or that the issues presented were 'adequate to deserve encouragement to proceed			
23	further'." <u>Slack v. McDaniel</u> , 529 U.S. 473, 484 (2000) (quoting Barefoot v. Estelle, 463 U.S.			
24	880, 893 (1983)).			
25	In the present case, the Court finds that Petitioner has not made the required substantial			
26	showing of the denial of a constitutional right to justify the issuance of a certificate of			
27	appealability. Reasonable jurists would not find the Court's determination that Petitioner is not			
28	entitled to federal habeas corpus relief debatable, wrong, or deserving of encouragement to			

I

2

1	proceed furthe	er. Accordingly, the Court DECLINES to issue a certificate of appealability.	
2	Accordingly, IT IS HEREBY ORDERED that:		
3	1.	The Findings and Recommendation, filed February 16, 2011 (Doc. 6), is	
4		ADOPTED IN FULL;	
5	2.	This petition for writ of habeas corpus (Doc. 1), is SUMMARILY DISMISSED;	
6	3.	The Clerk of Court is DIRECTED to ENTER JUDGMENT and close the file;	
7		and,	
8	4.	The Court DECLINES to issue a certificate of appealability.	
9	This order terminates the action in its entirety.		
10	IT IS SO ORDERED.		
11	Dated: Ma	arch 14, 2011 /s/ Oliver W. Wanger UNITED STATES DISTRICT JUDGE	
12		UNITED STATES DISTRICT JUDGE	
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			