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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONNIE EARL HOWELL,
Petitioner,

v.
BRENDA CASH, Warden,
Respondent.

1:13-cv-01518 LJO MJS HC

**ORDER ADOPTING FINDINGS AND
RECOMMENDATION TO DISMISS
PETITION FOR WRIT OF HABEAS
CORPUS**

**ORDER DECLINING TO ISSUE A
CERTIFICATE OF APPEALABILITY**

[Doc. 16]

Petitioner is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On December 16, 2013, the Magistrate Judge issued a Findings and Recommendation that Respondent's Motion to Dismiss be granted and the Petition for Writ of Habeas Corpus be DISMISSED as moot. This Findings and Recommendation was served on all parties with notice that any objections were to be filed within thirty (30) days of the date of service of the order. Neither party filed objections to the Findings and Recommendation.

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, the Court concludes that the Magistrate Judge's Findings and Recommendation is

1 supported by the record and proper analysis.

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. The Findings and Recommendation issued December 16, 2013, is
4 ADOPTED;
- 5 2. The Petition for Writ of Habeas Corpus is DISMISSED; and
- 6 3. The Court DECLINES to issue a Certificate of Appealability. 28 U.S.C. §
7 2253(c); Slack v. McDaniel, 529 U.S. 473, 484 (2000) (in order to obtain a
8 COA, petitioner must show: (1) that jurists of reason would find it debatable
9 whether the petition stated a valid claim of a denial of a constitutional right;
10 and (2) that jurists of reason would find it debatable whether the district
11 court was correct in its procedural ruling. Slack v. McDaniel, 529 U.S. 473,
12 484 (2000). In the present case, jurists of reason would not find debatable
13 whether the petition was properly dismissed. Petitioner has not made the
14 required substantial showing of the denial of a constitutional right.

15 IT IS SO ORDERED.

16 Dated: February 11, 2014

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

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