

1 objections, the court concludes that the findings and recommendation are supported by the record
2 and proper analysis.

3 A state prisoner seeking a writ of habeas corpus has no absolute entitlement to appeal a
4 district court's denial of his petition, and an appeal is only allowed in certain circumstances.
5 *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003); 28 U.S.C. § 2253. If a court denies a habeas
6 petition on the merits, the court may only issue a certificate of appealability "if jurists of reason
7 could disagree with the district court's resolution of [the petitioner's] constitutional claims or that
8 jurists could conclude the issues presented are adequate to deserve encouragement to proceed
9 further." *Miller-El*, 537 U.S. at 327; *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). While the
10 petitioner is not required to prove the merits of his case, he must demonstrate "something more
11 than the absence of frivolity or the existence of mere good faith on his . . . part." *Miller-El*, 537
12 U.S. at 338.

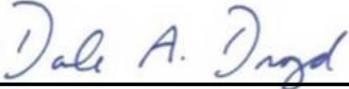
13 In the present case, the court finds that reasonable jurists would not find the court's
14 determination that the petition should be denied debatable or wrong, or that the issues presented
15 are deserving of encouragement to proceed further. Petitioner has not made the required
16 substantial showing of the denial of a constitutional right. Therefore, the court declines to issue a
17 certificate of appealability.

18 For the reasons set forth above:

- 19 1. The findings and recommendation issued May 6, 2016 (Doc. No. 17) are adopted in
20 full;
- 21 2. The petition for writ of habeas corpus is denied;
- 22 3. The Clerk of Court is directed to close the case; and
- 23 4. The court declines to issue a certificate of appealability.

24 IT IS SO ORDERED.

25 Dated: September 14, 2016

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UNITED STATES DISTRICT JUDGE