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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JENNIFER ANN PAYNE,  
Petitioner,  
v.  
GEORGE RUNNER,  
Respondent.

No. 1:16-cv-00072-DAD-MJS (HC)  
ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
CASE  
(Doc. No. 7)

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

On April 26, 2016, the assigned magistrate judge issued findings and recommendations recommending that the petition be dismissed due to petitioner’s failure to follow a court order. (Doc. No. 7.)<sup>1</sup> These findings and recommendations were served on the petitioner and contained notice that any objections were to be filed within thirty (30) days of the date of service of the order. No objections have been filed and the time in which to object has passed.

<sup>1</sup> Specifically, the original petition was screened and dismissed with petitioner being granted leave to file an amended petition within thirty days. When no amended petition was filed, the assigned magistrate judge issued an order requiring petitioner to show cause in writing why the petition should not be dismissed for failure to comply with the court’s order. When no response to the order to show cause was filed, the findings and recommendations recommending dismissal were issued. A subsequent court order served on petitioner at her address of record has been returned to the court by the U.S. Mail as undeliverable. (Doc. No. 8.)

1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this court has conducted a  
2 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the  
3 magistrate judge's findings and recommendations are supported by the record and proper  
4 analysis.


5 The federal rules governing habeas cases brought by state prisoners require a district court  
6 that issues an order denying a habeas petition to either grant or deny therein a certificate of  
7 appealability. See Rules Governing § 2254 Case, Rule 11(a). In order to obtain a certificate of  
8 appealability, petitioner must show: (1) that jurists of reason would find it debatable whether the  
9 petition stated a valid claim of a denial of a constitutional right; and (2) that jurists of reason  
10 would find it debatable whether the district court was correct in its procedural ruling. 28 U.S.C. §  
11 2253(c); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). In the present case, the court does not  
12 find that jurists of reason would not find it debatable whether the petition was properly dismissed  
13 with prejudice for failure to follow a court order. Petitioner has not made the required substantial  
14 showing of the denial of a constitutional right. Accordingly, a certificate of appealability will not  
15 issue.

16 Given the foregoing:

- 17 1. The findings and recommendations issued April 26, 2016 (Doc. No. 7) are adopted in  
18 full;
- 19 2. The petition for writ of habeas corpus is dismissed due to petitioner's failure to abide  
20 by the court's order;
- 21 3. The court declines to issue a certificate of appealability; and
- 22 4. The Clerk of Court is directed to close the case.

23 IT IS SO ORDERED.

24 Dated: September 2, 2016

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27 UNITED STATES DISTRICT JUDGE  
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