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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DALLAS RANDOLPH WHITE,
Petitioner,
v.
SCOTT FRAUENHEIM,
Respondent.

No. 1:16-cv-01436-DAD-JLT

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
PETITION FOR WRIT OF HABEAS
CORPUS, AND DECLINING TO ISSUE
CERTIFICATE OF APPEALABILITY

(Doc. No. 23)

Petitioner is a state prisoner proceeding *in propria persona* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On July 19, 2017, the assigned magistrate judge issued findings and recommendations recommending the petition be denied on its merits. (Doc. No. 23). These findings and recommendations were served upon all parties and contained notice that any objections were to be filed within twenty-one days from the date of service of that order. No objections have been filed, and the time in which to do so has passed.

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

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1 A state prisoner seeking a writ of habeas corpus has no absolute entitlement to appeal a
2 district court's denial of his petition, and an appeal is only allowed in certain circumstances.
3 *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003). Specifically, the federal rules governing
4 habeas cases brought by state prisoners require a district court issuing an order denying a habeas
5 petition to either grant or deny therein a certificate of appealability. *See* Rules Governing § 2254
6 Case, Rule 11(a). A judge shall grant a certificate of appealability “only if the applicant has made
7 a substantial showing of the denial of a constitutional right,” 28 U.S.C. § 2253(c)(2), and the
8 certificate must indicate which issues satisfy this standard. 28 U.S.C. § 2253(c)(3). “Where a
9 district court has rejected the constitutional claims on the merits, the showing required to satisfy
10 § 2253(c) is straightforward: [t]he petitioner must demonstrate that reasonable jurists would find
11 the district court's assessment of the constitutional claims debatable or wrong.” *Slack v.*
12 *McDaniel*, 529 U.S. 473, 484 (2000). Additionally, for claims denied on procedural grounds, a
13 certificate of appealability should issue “when the prisoner shows, at least, that jurists of reason
14 would find it debatable whether the petition states a valid claim of the denial of a constitutional
15 right and that jurists of reason would find it debatable whether the district court was correct in its
16 procedural ruling.” *Id.* Here, petitioner has not made such a showing. Accordingly, a certificate
17 of appealability will not be issued.

18 Given the above:

- 19 1. The findings and recommendations issued July 19, 2017 (Doc. No. 23) are adopted in full;
- 20 2. The petition for writ of habeas corpus is denied;
- 21 3. The Clerk of the Court is directed to enter judgment and close the file; and
- 22 4. The court declines to issue a certificate of appealability.

23 IT IS SO ORDERED.

24 Dated: October 23, 2017

25 
26 UNITED STATES DISTRICT JUDGE