



1 objections. (Doc. No. 18.) Nonetheless, to date, no objections have been filed and the time in  
2 which to do so has now passed.

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

6 Having found that petitioner is not entitled to habeas relief, the court now turns to whether  
7 a certificate of appealability should issue. A prisoner seeking a writ of habeas corpus has no  
8 absolute entitlement to appeal a district court's denial of his petition, as an appeal is only allowed  
9 under certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335-336 (2003); 28 U.S.C. §  
10 2253. Specifically, an appeal from a denial of a successive petition under 28 U.S.C. § 2255 that  
11 is disguised as a § 2241 petition requires a certificate of appealability. *Harrison v. Ollison*, 519  
12 F.3d 952, 958 (9th Cir. 2008); *Porter v. Adams*, 244 F.3d 1006, 1007 (9th Cir. 2001). The court  
13 may only issue a certificate of appealability when "the applicant has made a substantial showing  
14 of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To make a substantial showing,  
15 the petitioner must establish that "reasonable jurists could debate whether (or, for that matter,  
16 agree that) the petition should have been resolved in a different manner or that the issues  
17 presented were 'adequate to deserve encouragement to proceed further.'" *Slack v. McDaniel*, 529  
18 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).

19 In the present case, the court concludes that petitioner has not made the required  
20 substantial showing of the denial of a constitutional right to justify the issuance of a certificate of  
21 appealability. Reasonable jurists would not find the court's determination that petitioner is not  
22 entitled to federal habeas corpus relief wrong or debatable, and they would not conclude that  
23 petitioner is deserving of encouragement to proceed further. Therefore, the court declines to issue  
24 a certificate of appealability.

25 Accordingly:

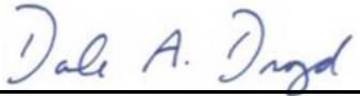
- 26 1. The findings and recommendations issued on June 27, 2019 (Doc. No. 15) are  
27 adopted in full;
- 28 2. Respondent's motion to dismiss (Doc. No. 12) is granted;

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3. The petition for writ of habeas corpus (Doc. No. 1) is dismissed with prejudice for lack of jurisdiction;
4. The Clerk of Court is respectfully directed to close the case; and
5. The court declines to issue a certificate of appealability.

IT IS SO ORDERED.

Dated: December 16, 2019

  
UNITED STATES DISTRICT JUDGE