



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

4 Having found that petitioner is not entitled to habeas relief, the court now turns to whether  
5 a certificate of appealability should issue. A prisoner seeking a writ of habeas corpus has no  
6 absolute entitlement to appeal a district court's denial of his petition, as an appeal is only allowed  
7 under certain circumstances. 28 U.S.C. § 2253; *Miller-El v. Cockrell*, 537 U.S. 322, 335-336  
8 (2003). In addition, Rule 11 of the Rules Governing Section 2254 Cases requires that a district  
9 court issue or deny a certificate of appealability when entering a final order adverse to a  
10 petitioner. *See also* Ninth Circuit Rule 22-1(a); *United States v. Asrar*, 116 F.3d 1268, 1270 (9th  
11 Cir. 1997). If, as here, a court denies a petition for a writ of habeas corpus, the court may only  
12 issue a certificate of appealability when "the applicant has made a substantial showing of the  
13 denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To make a substantial showing, the  
14 petitioner must establish that "reasonable jurists could debate whether (or, for that matter, agree  
15 that) the petition should have been resolved in a different manner or that the issues presented  
16 were 'adequate to deserve encouragement to proceed further.'" *Slack v. McDaniel*, 529 U.S. 473,  
17 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).

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

24 Accordingly:

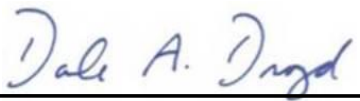
- 25 1. The findings and recommendations filed on September 25, 2019, (Doc. No. 12),  
26 are adopted in full;
- 27 2. The petition for writ of habeas corpus, (Doc. No. 1), is dismissed with prejudice  
28 for lack of jurisdiction;

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- 3. The Clerk of Court is directed to enter judgment and close the file; and
- 4. The court declines to issue a certificate of appealability.

IT IS SO ORDERED.

Dated: December 2, 2019

  
UNITED STATES DISTRICT JUDGE