

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAUL A. VALENCIA,
Petitioner,
v.
JIM ROBERTSON,
Respondent.

No. 1:19-cv-00398-NONE-JPD (HC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DENY
PETITION FOR WRIT OF HABEAS
CORPUS
(Doc. Nos. 1, 27)

Petitioner Raul A. Valencia, a state prisoner, is proceeding *in propria persona* with this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has been serving a 392-months state prison sentence imposed following his conviction on three counts of robbery since 2014. (Doc. No. 21-2 at 364–65.) Pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302, the instant federal habeas petition was referred to a United States Magistrate Judge.

On September 2, 2020, the assigned magistrate judge issued findings and recommendations recommending that petitioner’s habeas petition be denied. (Doc. No. 27.) Petitioner has not filed any objections thereto despite being given the opportunity to do so. Pursuant to 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, the undersigned has reviewed this case *de novo* and finds the pending findings and recommendations to be supported by the record and proper analysis.

////

1 The court must now turn to whether a certificate of appealability should be issued. A
2 petitioner seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's
3 denial of his petition, and an appeal is only allowed in certain circumstances. *Miller-El v.*
4 *Cockrell*, 537 U.S. 322, 335–36 (2003); 28 U.S.C. § 2253. Courts should issue a certificate of
5 appealability only if “reasonable jurists could debate whether (or, for that matter, agree that) the
6 petition should have been resolved in a different manner or that the issues presented were
7 ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473, 484
8 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)). In the present case, the
9 court finds that reasonable jurists would not find the court's determination that the petition should
10 be denied debatable or wrong, or that petitioner should be allowed to proceed further. Therefore,
11 the court declines to issue a certificate of appealability.

12 Accordingly, the court orders as follows:

- 13 1. The findings and recommendations issued on September 2, 2020 (Doc. No. 27) are
14 ADOPTED in full;
- 15 2. The petition for writ of habeas corpus (Doc. No. 1) is DENIED;
- 16 3. The court DECLINES to issue a certificate of appealability; and
- 17 4. The Clerk of Court is DIRECTED to assign a district judge to this case for the purposes of
18 closure and to close this case.

19 IT IS SO ORDERED.

20 Dated: December 4, 2020

21 
22 _____
23 UNITED STATES DISTRICT JUDGE
24
25
26
27
28