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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH ROSHAUN REID,  
Petitioner,  
v.  
WARDEN S. LAKE,  
Respondent.

No. 1:19-cv-00747-DAD-JDP (HC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS

(Doc. No. 7)

Petitioner Kenneth Roshaun Reid is a federal prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 26, 2019, the assigned magistrate judge issued findings and recommendations recommending that the pending petition be dismissed as frivolous and for lack of jurisdiction because petitioner does not claim his actual innocence and because he previously had an unobstructed procedural shot to assert his habeas claims. (Doc. No. 7.) The findings and recommendations were served on petitioner and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 3.) To date, petitioner has not filed objections, and the time period for doing so has passed.

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1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this  
2 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the  
3 court finds the findings and recommendations to be supported by the record and proper analysis.

4 In addition, a prisoner seeking a writ of habeas corpus has no absolute entitlement to  
5 appeal a district court's denial of his petition, and an appeal is only allowed in certain  
6 circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003); 28 U.S.C. § 2253. Rule 11  
7 Governing Section 2254 Cases requires that a district court issue or deny a certificate of  
8 appealability when entering a final order adverse to a petitioner. *See also* Ninth Circuit Rule 22-  
9 1(a); *United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997). Where, as here, the court  
10 denies habeas relief on procedural grounds without reaching the underlying constitutional claims,  
11 the court will issue a certificate of appealability "if jurists of reason would find it debatable  
12 whether the petition states a valid claim of the denial of a constitutional right and that jurists of  
13 reason would find it debatable whether the district court was correct in its procedural ruling."  
14 *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Reasonable jurists would not find the court's  
15 decision debatable or conclude that the petition should proceed further. Thus, the court declines  
16 to issue a certificate of appealability.

17 Accordingly,

- 18 1. The findings and recommendations issued on September 26, 2019 (Doc. No. 7) are  
19 adopted in full;
- 20 2. This petition for writ of habeas corpus is dismissed as frivolous and for lack of  
21 jurisdiction; and
- 22 3. The Clerk of the Court is directed to close this case.

23 IT IS SO ORDERED.

24 Dated: December 2, 2019

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27 UNITED STATES DISTRICT JUDGE  
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