

1 and contained notice that any objections thereto were to be filed within thirty (30) days after
2 service. (*Id.* at 3.) To date, no objections to those findings and recommendations have been filed
3 by petitioner.

4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
5 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file,
6 including petitioner’s objections, the court finds the findings and recommendations to be
7 supported by the record and proper analysis.

8 On March 23, 2020, petitioner filed with the court a “MOTION to STAY or for
9 EXTENSION of TIME.” (Doc. No. 20.) Therein, petitioner “motions this Court to stay all the
10 proceedings pending an application for leave to file [a] second or successive petitioner.” (*Id.* at
11 1.) He argues that such an application is currently being brought in the Ninth Circuit. (*Id.*)
12 Petitioner’s motion will be denied because the court does not have jurisdiction over this matter
13 *until* he obtains authorization from the Ninth Circuit to file a successive petition. *See* 28 U.S.C. §
14 2244(b)(3)(A) (“*Before* a second or successive application permitted by this section is filed in the
15 district court, the applicant shall move in the appropriate court of appeals for an order authorizing
16 the district court to consider the application.”) (emphasis added). Because petitioner in this case
17 has made no showing that he has obtained prior leave from the Ninth Circuit to file a successive
18 petition, this court has no jurisdiction to consider his application for relief under 28 U.S.C. § 2254
19 and must deny the petition. *Burton v. Stewart*, 549 U.S. 147, 157 (2007).

20 Finally, a state prisoner seeking a writ of habeas corpus has no absolute entitlement to
21 appeal a district court’s denial of his petition, and an appeal is only allowed in certain
22 circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003). Specifically, the federal
23 rules governing habeas cases brought by state prisoners require a district court issuing an order
24 denying a habeas petition to either grant or deny therein a certificate of appealability. *See* Rules
25 Governing § 2254 Case, Rule 11(a). A judge shall grant a certificate of appealability “only if the
26 applicant has made a substantial showing of the denial of a constitutional right,” 28 U.S.C.
27 § 2253(c)(2), and the certificate must indicate which issues satisfy this standard, *id.* at (c)(3).
28 Where a petitioner’s constitutional claims have been rejected, “the showing required to satisfy

1 § 2253(c) is straightforward: [t]he petitioner must demonstrate that reasonable jurists would find
2 the district court's assessment of the constitutional claims debatable or wrong." *Slack v.*
3 *McDaniel*, 529 U.S. 473, 484 (2000). Here, petitioner has not made such a showing.
4 Accordingly, a certificate of appealability will not be issued.

5 For the reasons set forth above,

- 6 1. The February 18, 2020 findings and recommendations (Doc. No. 19) are adopted
7 in full;
- 8 2. Respondent's motion to dismiss the petition (Doc. No. 13) is granted;
- 9 3. The petition for writ of habeas corpus (Doc. No. 1) is denied;
- 10 4. Petitioner's miscellaneous motion (Doc. No. 20) is denied;
- 11 5. The Clerk of the Court is directed to close this case; and
- 12 6. The court declines to issue a certificate of appealability.

13 IT IS SO ORDERED.

14 Dated: April 20, 2020

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17 UNITED STATES DISTRICT JUDGE
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