

1 Having determined that petitioner is not entitled to habeas relief, the court now turns to
2 whether a certificate of appealability should issue. “[A] state prisoner seeking a writ of habeas
3 corpus has no absolute entitlement to appeal a district court’s denial of his petition,” and an
4 appeal is allowed only in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335–36
5 (2003); *see also* 28 U.S.C. § 2253(c)(1)(A) (permitting habeas appeals from state prisoners only
6 with a certificate of appealability).

7 Where, as here, “the court denies habeas relief on procedural grounds without reaching the
8 prisoner’s underlying constitutional claims,” the court should issue a certificate of appealability
9 “if jurists of reason would find it debatable whether the petition states a valid claim of the denial
10 of a constitutional right, and that jurists of reason would find it debatable whether the district
11 court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). But
12 “[w]here a plain procedural bar is present . . . a reasonable jurist [cannot] conclude either that the
13 district court erred in dismissing the petition or that the petitioner should be allowed to proceed
14 further.” *Id.* Because petitioner’s pending application is clearly barred on jurisdictional grounds,
15 in that it is a second or successive petition filed without the authorization of the Ninth Circuit
16 Court of Appeals, this court will decline to issue a certificate of appealability.

17 Accordingly, the court orders as follows:

- 18 1. The findings and recommendations, filed March 2, 2020 (Doc. No. 6), are
19 ADOPTED IN FULL;
- 20 2. The petition for writ of habeas corpus is DISMISSED;
- 21 3. The Clerk of Court is directed to assign a district judge to this case for the purpose
22 of closing the case and then to ENTER JUDGMENT AND CLOSE THE CASE; and,
- 23 4. The court DECLINES to issue a certificate of appealability.

24 This order terminates the action in its entirety.

25 IT IS SO ORDERED.

26 Dated: April 1, 2020

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UNITED STATES DISTRICT JUDGE