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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MONRELL D. MURPHY,  
  
                                Petitioner,  
  
                  v.  
  
RALPH DIAZ,  
  
                                Respondent.

No. 1:20-cv-01300-DAD-SAB (HC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DENYING  
PETITION FOR WRIT OF HABEAS  
CORPUS

(Doc. No. 21)

Petitioner Monrell D. Murphy is a state prisoner proceeding *pro se* and *in forma pauperis* with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. 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 May 19, 2021, the assigned magistrate judge issued findings and recommendations recommending that the pending petition for federal habeas relief, in which petitioner asserts that his due process rights were violated when he was denied the right to call a certain witness at his prison disciplinary hearing (Doc. No. 1), be denied on the merits. (Doc. No. 21.) Specifically, the magistrate judge found that “the state court’s denial of relief was not contrary to, or an unreasonable application of, clearly established federal law, nor was it based on an unreasonable determination of fact.” (*Id.* at 9.) Those findings and recommendations were served on all parties and contained notice that any objections thereto were to be filed within thirty (30) days from the

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1 date of service. (*Id.* at 9–10.) No objections have been filed and the time in which to do so has  
2 now passed.

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

6 Having found that petitioner is not entitled to habeas relief, the court now turns to whether  
7 a certificate of appealability should issue. A prisoner seeking a writ of habeas corpus has no  
8 absolute entitlement to appeal a district court’s denial of his petition, as an appeal is only allowed  
9 under certain circumstances. 28 U.S.C. § 2253; *Miller-El v. Cockrell*, 537 U.S. 322, 335-336  
10 (2003). In addition, Rule 11 of the Rules Governing Section 2254 Cases requires that a district  
11 court issue or deny a certificate of appealability when entering a final order adverse to a  
12 petitioner. *See also* Ninth Circuit Rule 22-1(a); *United States v. Asrar*, 116 F.3d 1268, 1270 (9th  
13 Cir. 1997). If, as here, a court denies a petition for a writ of habeas corpus, the court may only  
14 issue a certificate of appealability when “the applicant has made a substantial showing of the  
15 denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). To make a substantial showing, the  
16 petitioner must establish that “reasonable jurists could debate whether (or, for that matter, agree  
17 that) the petition should have been resolved in a different manner or that the issues presented  
18 were ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473,  
19 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)). Here, petitioner has not made  
20 such a showing. Therefore, the court declines to issue a certificate of appealability.

21 Accordingly,

- 22 1. The findings and recommendations issued on May 19, 2021 (Doc. No. 21) are  
23 adopted in full;
- 24 2. This petition for writ of habeas corpus (Doc. No. 1) is denied;

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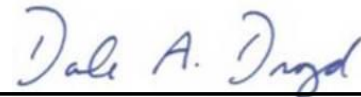
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3. The court declines to issue a certificate of appealability; and

4. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: July 26, 2021



UNITED STATES DISTRICT JUDGE