

1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), the court has conducted a
2 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
3 magistrate judge’s findings and recommendations are supported by the record and proper
4 analysis.

5 In addition, the court declines to issue a certificate of appealability. A state prisoner
6 seeking a writ of habeas corpus has no absolute entitlement to appeal a district court’s denial of
7 his petition, and an appeal is only allowed in certain circumstances. 28 U.S.C. § 2253; *Miller-El*
8 *v. Cockrell*, 537 U.S. 322, 335-336 (2003). If a court denies a petitioner’s petition, the court may
9 only issue a certificate of appealability when a petitioner makes a substantial showing of the
10 denial of a constitutional right. 28 U.S.C. § 2253(c)(2). To make a substantial showing, the
11 petitioner must establish that “reasonable jurists could debate whether (or, for that matter, agree
12 that) the petition should have been resolved in a different manner or that the issues presented
13 were ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473,
14 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).

15 In the present case, the court finds that petitioner has not made the required substantial
16 showing of the denial of a constitutional right to justify the issuance of a certificate of
17 appealability. Reasonable jurists would not find the court’s determination that petitioner is not
18 entitled to federal habeas corpus relief debatable, wrong, or deserving of encouragement to
19 proceed further. Thus, the court declines to issue a certificate of appealability.

20 Accordingly,

- 21 1. The findings and recommendations issued on September 15, 2021, (Doc. No. 21),
22 are adopted in full;
- 23 2. Respondent’s motion to dismiss (Doc. No. 9), is granted;
- 24 3. The petition for writ of habeas corpus is dismissed with prejudice;

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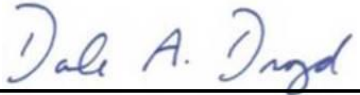
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4. The Clerk of the Court is directed to assign a district judge to this case for the purpose of closing the case and then to close the case; and

5. The court declines to issue a certificate of appealability.

IT IS SO ORDERED.

Dated: December 1, 2021


UNITED STATES DISTRICT JUDGE