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8	UNITED STATES DISTRICT COURT		
9	FOR THE EASTERN DISTRICT OF CALIFORNIA		
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11	IVAN CISNEROS,	No. 1:21-cv-00201-NONE-SKO (HC)	
12	Petitioner,	ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, DISMISSING	
13		HABEAS PETITION, FOR WRIT OF CORPUS, DIRECTING CLERK OF COURT	
14 15	v.	TO ASSIGN DISTRICT JUDGE FOR PURPOSE OF CLOSING CASE AND THEN CLOSE CASE, AND DECLINING TO ISSUE CERTIFICATE OF APPEALABILITY	
16	GISELLE MATTESON,	(Doc. No. 21)	
17	Respondent.	(Doc. 140. 21)	
18	respondent.		
19			
20	Petitioner Ivan Cisneros is a state prisoner proceeding pro se and in forma pauperis with a		
21	petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter was referred to a		
22	United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.		
23	On September 15, 2021, the assigned magistrate judge issued findings and		
24	recommendations recommending that respondent's motion to dismiss the pending petition as		
25	untimely under the applicable statute of limitations. (Doc. No. 21.) Those findings and		
26	recommendations were served upon all parties and contained notice that any objections thereto		
27	were to be filed within thirty (30) days after service. No objections have been filed. However, on		

November 15, 2021, petitioner filed a motion to withdraw the habeas petition. (Doc. No. 26.)

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

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

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

## Accordingly,

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

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1	4.	The Clerk of the Court is	directed to assign a district judge to this case for the
2	purpose of closing the case and then to close the case; and		
3	5.	The court declines to issu	e a certificate of appealability.
4	IT IS SO OI	RDERED.	
5	Dated:	<b>December 1, 2021</b>	Dale A. Dragd
6			UNITED STATES DISTRICT JUDGE
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