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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DESHAWN JACKSON,

 Petitioner,

 v.

CHRISTIAN PFEIFFER, Warden,

 Respondent.

No. 1:21-cv-00250-NONE-SKO (HC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING
PETITION FOR WRIT OF HABEAS
CORPUS, DIRECTING CLERK OF COURT
TO ASSIGN DISTRICT JUDGE FOR
PURPOSE OF CLOSING CASE AND THEN
ENTER JUDGMENT AND CLOSE CASE,
AND DECLINING TO ISSUE CERTIFICATE
OF APPEALABILITY

(Doc. No. 6)

Petitioner Deshawn Jackson is a state prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 25, 2021, the assigned magistrate judge issued findings and recommendations recommending that the petition be dismissed as an unauthorized second or successive petition. (Doc. No. 6.) Those findings and recommendations were served upon all parties and contained notice that any objections thereto were to be filed within twenty-one (21) days after service. (*Id.* at 3.) On March 16, 2021, after the court granted his motion for an extension of time, petitioner filed objections to the findings and recommendations. (Doc. No. 9.)

1 In his objections, petitioner makes various arguments as to why his successive petition
2 should be permitted. However, the court is without jurisdiction to consider those arguments
3 because, as noted by the magistrate judge, a petitioner must first obtain authorization from the
4 Ninth Circuit before he can submit an application to file a successive petition in the district court.
5 See 28 U.S.C. § 2244(b)(3)(A).

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
7 *de novo* review of the case. Having carefully reviewed the entire file, including petitioner's
8 objections, the court concludes that the magistrate judge's findings and recommendations are
9 supported by the record and proper analysis. Petitioner's objections present no grounds for
10 questioning the magistrate judge's analysis.

11 In addition, the court declines to issue a certificate of appealability. A state prisoner
12 seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of
13 his petition, and an appeal is only allowed in certain circumstances. 28 U.S.C. § 2253; *Miller-El*
14 *v. Cockrell*, 537 U.S. 322, 335–36 (2003). If a court denies a petitioner's petition, the court may
15 only issue a certificate of appealability when a petitioner makes a substantial showing of the
16 denial of a constitutional right. 28 U.S.C. § 2253(c)(2). To make a substantial showing, the
17 petitioner must establish that “reasonable jurists could debate whether (or, for that matter, agree
18 that) the petition should have been resolved in a different manner or that the issues presented
19 were ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473,
20 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).

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

26 Accordingly,

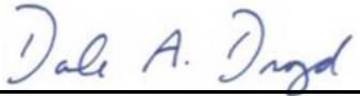
- 27 1. The findings and recommendations issued on February 25, 2021 (Doc. No. 6), are
28 adopted in full;

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2. The petition for writ of habeas corpus is dismissed as successive;
3. 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 enter judgment and close the case; and
4. The court declines to issue a certificate of appealability.

IT IS SO ORDERED.

Dated: April 9, 2021


UNITED STATES DISTRICT JUDGE