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8	UNITED STATE	ES DISTRICT COURT
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	ANTHONY J. LAWS,	Case No. 1:21-cv-00262-NONE-HBK
12	Petitioner,	ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, DISMISSING
13	v.	PETITION FOR WRIT OF HABEAS CORPUS, DECLINING TO ISSUE
14	CALIFORNIA DEPARTMENT OF CORRECTIONS,	<u>CERTIFICATE OF APPEALABILITY, AND</u> DIRECTING CLERK OF COURT TO
15	Respondent.	ASSIGN DISTRICT JUDGE AND CLOSE CASE
16	Respondent.	(Doc. Nos. 1, 5)
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19	Petitioner Anthony J. Laws is a state prisoner proceeding pro se and in forma pauperis	
20	with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to	
21	a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.	
22	On March 11, 2021, the assigned magistrate judge issued findings and recommendations	
23	recommending that the pending petition be dismissed. (Doc. No. 5.) Petitioner is currently	
24	appealing his underlying state criminal conviction before the California Court of Appeal (Doc.	
25	No. 1 at 2), as a result of which it is clear that the judgment of conviction he seeks to challenge in	
26	these proceedings is not yet final. (See Doc. No. 5 at 2–3). The pending findings and	
27	recommendations were served on petitioner at his address of record and contained notice that any	
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objections thereto were to be filed within thirty (30) days of service. (*Id.* at 4.) To date, no
 objections have been filed and the time in which to do so has passed.

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
findings and recommendations are supported by the record and by proper analysis.

6 Having determined that petitioner is not entitled to habeas relief, the court now turns to 7 whether a certificate of appealability should issue. The federal rules governing habeas cases 8 brought by state prisoners require a district court issuing an order denying a habeas petition to 9 either grant or deny therein a certificate of appealability. See Rules Governing § 2254 Case, Rule 10 11(a). A prisoner seeking a writ of habeas corpus has no absolute entitlement to appeal, rather an 11 appeal is only allowed in certain circumstances. Miller-El v. Cockrell, 537 U.S. 322, 335–36 12 (2003); see also 28 U.S.C. § 2253(c)(1)(A) (permitting habeas appeals from state prisoners only 13 with a certificate of appealability). A judge shall grant a certificate of appealability "only if the 14 applicant has made a substantial showing of the denial of a constitutional right," 28 U.S.C. 15 2253(c)(2), and the certificate must indicate which issues satisfy this standard, *id.* 2253(c)(3). 16 In the present case, the court finds that reasonable jurists would not find the court's rejection of 17 petitioner's claims to be debatable or conclude that the petition should proceed further. Thus, the 18 court declines to issue a certificate of appealability.

19 Accordingly:

20 1. The findings and recommendations issued on March 11, 2021 (Doc. No. 5) are
21 adopted in full;

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2. The petition for writ of habeas corpus (Doc. No. 1) is dismissed without prejudice;

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The court declines to issue a certificate of appealability; and

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

²⁶ IT IS SO ORDERED.

Dated: May 28, 2021

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UNITED STATES DISTRICT JUDGE

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