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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	RAMON NAVARRO LUPERCIO,	No. 1:21-cv-00306-DAD-JLT (HC)
12	Petitioner,	
13	V.	ORDER ADOPTING FINDINGS AND
14	VISALIA POLICE DEPARTMENT,	RECOMMENDATIONS AND DISMISSING PETITION FOR WRIT OF HABEAS
15	Respondent.	CORPUS (Dan Non 1, 10)
16		(Doc. Nos. 1, 10)
17	_	
18	Petitioner Ramon Navarro Lupercio is a state prisoner proceeding pro se and in forma	
19	pauperis with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was	
20	referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rule	
21	302.	
22	On March 12, 2021, the assigned magistrate judge issued findings and recommendations,	
23	recommending that the pending petition for federal habeas relief be dismissed for lack of	
24	jurisdiction. (Doc. No. 10.) These findings and recommendations were served on all parties and	
25	contained notice that any objections thereto were to be filed within twenty-one (21) days of	
26	service. (Id.) To date, no objections to the findings and recommendations have been filed with	
27	the court, and the time in which to do so has now passed.	
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In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the court concludes that the findings and recommendations are supported by the record and proper analysis.

In addition, having concluded that the pending petition must be dismissed, the court now turns to whether a certificate of appealability should issue. 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. *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003); 28 U.S.C. § 2253. Where, as here, the court denies habeas relief on procedural grounds without reaching the underlying constitutional claims, the court should issue a certificate of appealability "if jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). In the present case, the court finds that reasonable jurists would not find the court's determination that the petition should be dismissed debatable or wrong, or that petitioner should be allowed to proceed further. Therefore, the court declines to issue a certificate of appealability.

Accordingly,

- 1. The findings and recommendations issued on March 12, 2021 (Doc. No. 10) are adopted in full;
- 2. The petition for writ of habeas corpus (Doc. No. 1) is dismissed;
- 3. The court declines to issue a certificate of appealability; and
- 4. The Clerk of the Court is directed to close this case.

22 | IT IS SO ORDERED.

Dated: **April 23, 2021**

UNITED STATES DISTRICT JUDGE

Dale A. Drand

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