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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TERRANCE HULLABY,  
Petitioner,  
v.  
CHRISTIAN FEIFFER, Warden,  
Respondent.

No. 1:21-cv-00569-NONE-JLT (HC)  
ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, DISMISSING  
PETITION FOR WRIT OF HABEAS  
CORPUS, DIRECTING CLERK OF COURT  
TO ASSIGN DISTRICT JUDGE AND CLOSE  
CASE, AND DECLINING TO ISSUE  
CERTIFICATE OF APPEALABILITY  
(Doc. No. 7)

Petitioner is a state prisoner proceeding *in propria persona* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On May 25, 2021, the assigned magistrate judge issued findings and recommendations recommending that the pending petition be dismissed for failure to comply with a court order and failure to prosecute. (Doc. No. 7.) These findings and recommendations were served upon all parties and contained notice that any objections thereto were to be filed within ten (10) days from the date of service of that order. To date, no party has filed objections, and the time 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

1 magistrate judge’s findings and recommendations are supported by the record and proper  
2 analysis. Petitioner was given thirty (30) days to file a first amended petition. (Doc. No. 4  
3 (finding that the allegations of the pending petition, on their face, demonstrated petitioner’s  
4 failure to exhaust his claims by first presenting them to the state’s highest court).) To date,  
5 petitioner has not filed an amended petition, nor has he communicated with the court in any way.

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

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

21 Accordingly, the court orders as follows:

- 22 1. The findings and recommendations, filed May 25, 2021, (Doc. No. 7), are  
23 **ADOPTED IN FULL;**
- 24 2. The petition for writ of habeas corpus is **DISMISSED;**

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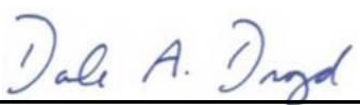
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3. The clerk of court is DIRECTED to assign a district judge to this case for the purpose of closing the case and then to close the case; and

4. The court DECLINES to issue a certificate of appealability.

IT IS SO ORDERED.

Dated: July 15, 2021

  
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UNITED STATES DISTRICT JUDGE