



1 In his objections, petitioner asserts that he was advised by his appellate attorney to file a  
2 petition for writ of habeas corpus following the conclusion of his state court appeal. (*Id.* at 1.)  
3 Petitioner also reiterates his argument that he is being denied certain time credits to which he is  
4 entitled. (*Id.*) Neither of these arguments address the fact that petitioner failed to exhaust his  
5 claim because he did not seek review of his claim by the California Supreme Court, nor that  
6 petitioner’s sole claim for relief is now procedurally barred because his petition for review was  
7 due to be filed in the California Supreme Court no later than April 7, 2021. (*See* Doc. No. 11 at  
8 2–3.) As such, petitioner’s objections are unpersuasive.

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

13 Having determined that petitioner is not entitled to habeas relief, the court now turns to  
14 whether a certificate of appealability should issue. A state prisoner seeking a writ of habeas  
15 corpus has no absolute entitlement to appeal a district court’s denial of his petition, and an appeal  
16 is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003); 28  
17 U.S.C. § 2253. Where, as here, the court denies habeas relief on procedural grounds without  
18 reaching the underlying constitutional claims, the court should issue a certificate of appealability  
19 “if jurists of reason would find it debatable whether the petition states a valid claim of the denial  
20 of a constitutional right and that jurists of reason would find it debatable whether the district court  
21 was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). In the  
22 present case, the court finds that reasonable jurists would not find the court’s determination that  
23 the petition should be dismissed debatable or wrong, or that petitioner should be allowed to  
24 proceed further. Therefore, the court declines to issue a certificate of appealability.

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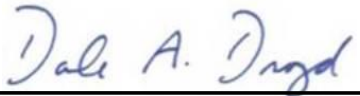
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Accordingly:

1. The findings and recommendations issued on June 22, 2021 (Doc. No. 11) are adopted in full;
2. The petition for writ of habeas corpus 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.

IT IS SO ORDERED.

Dated: September 4, 2021

  
UNITED STATES DISTRICT JUDGE