

1 On May 28, 2021, petitioner filed objections to the findings and recommendations. (Doc.
2 No. 7.) He continues to assert that the Board violated his due process rights by finding him
3 unsuitable for parole and asks the court to release him from prison. (*Id.* at 2.) As explained in the
4 pending findings and recommendations, however, federal habeas review of a prisoner’s denial of
5 parole is limited to procedural due process guarantees only, i.e., whether the prisoner “was
6 allowed an opportunity to be heard and was provided a statement of reasons why parole was
7 denied.” *Swarthout v. Cooke*, 562 U.S. 216, 220 (2011) (citation omitted). Petitioner does not
8 raise such challenges here and thus his petition must be dismissed.

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 magistrate judge’s findings and recommendations are
12 supported by the record and proper analysis.

13 In addition, the court declines to issue a certificate of appealability. A state prisoner
14 seeking a writ of habeas corpus has no absolute entitlement to appeal a district court’s denial of
15 his petition, and an appeal is only allowed in certain circumstances. 28 U.S.C. § 2253; *Miller-El*
16 *v. Cockrell*, 537 U.S. 322, 335–36 (2003). If a court denies a petitioner’s petition, the court may
17 only issue a certificate of appealability when a petitioner makes a substantial showing of the
18 denial of a constitutional right. 28 U.S.C. § 2253(c)(2). To make a substantial showing, the
19 petitioner must establish that “reasonable jurists could debate whether (or, for that matter, agree
20 that) the petition should have been resolved in a different manner or that the issues presented
21 were ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473,
22 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).

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

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Accordingly,

1. The findings and recommendations issued on May 12, 2021, (Doc. No. 5), are adopted in full;
2. The petition for writ of habeas corpus, (Doc. No. 1), is dismissed with prejudice;
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 14, 2021



UNITED STATES DISTRICT JUDGE