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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JARED ANDREW MARTIN,

 Petitioner,

 v.

TYSON J. POGUE, et al.,

 Respondents.

No. 1:21-cv-01622-ADA-SAB (HC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING
PETITION FOR WRIT OF HABEAS
CORPUS, DIRECTING CLERK OF COURT
TO CLOSE CASE, AND DECLINING TO
ISSUE CERTIFICATE OF APPEALABILITY

(ECF No. 44)

Petitioner Jared Andrew Martin (“Petitioner”) is proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 17, 2023, the assigned Magistrate Judge issued findings and recommendation recommending that the second amended petition be dismissed as moot, pursuant to *Younger v. Harris*, 401 U.S. 37 (1971), and for failure to state a cognizable federal habeas claim. (ECF No. 44.) The findings and recommendations were served on the parties and contained notice that any objections thereto were to be filed within thirty days after service. (*Id.*) On March 2, 2023, the findings and recommendation were returned as undeliverable with the notation that Petitioner was not in custody.¹ To date, no objections have been filed, and the time for doing so has passed.

¹ Absent notice of a party’s change of address, service of documents at the prior address of the party is fully effective. Local Rule 182(f).

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a
2 *de novo* review of the case. Having carefully reviewed the entire file, the Court holds the findings
3 and recommendations to be supported by the record and proper analysis.

4 Having found that Petitioner is not entitled to habeas relief, the Court now turns to
5 whether a certificate of appealability should issue. A petitioner seeking a writ of habeas corpus
6 has no absolute entitlement to appeal a district court's denial of his petition, and an appeal is only
7 allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003); 28 U.S.C.
8 § 2253. The court should issue a certificate of appealability if "reasonable jurists could debate
9 whether (or, for that matter, agree that) the petition should have been resolved in a different
10 manner or that the issues presented were 'adequate to deserve encouragement to proceed
11 further.'" *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S.
12 880, 893 & n.4 (1983)).

13 In the present case, the Court finds that reasonable jurists would not find the Court's
14 determination that the petition should be dismissed debatable or wrong, or that Petitioner should
15 be allowed to proceed further. Therefore, the Court declines to issue a certificate of appealability.

16 Accordingly:

- 17 1. The findings and recommendations issued on February 17, 2023, (ECF No. 44), are
18 adopted in full;
- 19 2. The second amended petition for writ of habeas corpus is dismissed;
- 20 3. The Clerk of Court is directed to close the case; and
- 21 4. The Court declines to issue a certificate of appealability.

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23
24 IT IS SO ORDERED.

25 Dated: May 30, 2023

26 
UNITED STATES DISTRICT JUDGE