

1 (Doc. No. 5.)

2 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
3 *de novo* review of the case. Thus, having carefully reviewed the entire file, including petitioner's
4 objections, the court holds the findings and recommendations to be supported by the record and
5 proper analysis.

6 Having found that petitioner is not entitled to habeas relief, the court now turns to whether
7 a certificate of appealability should issue. A petitioner seeking a writ of habeas corpus has no
8 absolute entitlement to appeal a district court's denial of his petition, and an appeal is allowed in
9 only certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003); 28 U.S.C. §
10 2253. Where, as here, the court denies habeas relief on procedural grounds without reaching the
11 underlying constitutional claims, the court should issue a certificate of appealability "if jurists of
12 reason would find it debatable whether the petition states a valid claim of the denial of a
13 constitutional right and that jurists of reason would find it debatable whether the district court was
14 correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). In the present
15 case, the court finds that reasonable jurists would not find the court's determination that the
16 petition should be dismissed debatable or wrong, or that petitioner should be encouraged to
17 proceed further. Therefore, the court declines to issue a certificate of appealability.

18 Accordingly,

- 19 1. The findings and recommendations issued on April 29, 2022, (Doc. No. 4) are
20 adopted in full;
- 21 2. The petition for writ of habeas corpus (Doc. No. 1) is dismissed;
- 22 3. The court declines to issue a certificate of appealability; and
- 23 4. The Clerk of Court is directed to close the case.

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26 IT IS SO ORDERED.

27 Dated: September 14, 2022

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UNITED STATES DISTRICT JUDGE