

1 Having carefully reviewed the entire matter, the Court concludes that the findings and
2 recommendations are supported by the record and proper analysis.

3 Having found Petitioner is not entitled to habeas relief, the Court turns to whether a
4 certificate of appealability should issue. A petitioner seeking a writ of habeas corpus has no
5 absolute entitlement to appeal a district court's denial of his petition, and an appeal is only
6 allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003); 28 U.S.C.
7 § 2253. If a court denies a habeas petition on the merits, a certificate of appealability may be
8 issued only “if jurists of reason could disagree with the district court’s resolution of [the
9 petitioner’s] constitutional claims or that jurists could conclude the issues presented are adequate
10 to deserve encouragement to proceed further.” *Miller-El*, 537 U.S. at 327; *Slack v. McDaniel*, 529
11 U.S. 473, 484 (2000). While Petitioner is not required to prove the merits of his case, he must
12 demonstrate “something more than the absence of frivolity or the existence of mere good faith on
13 his . . . part.” *Miller-El*, 537 U.S. at 338. In the present case, the Court finds that reasonable
14 jurists would not find the determination that the petition should be denied debatable or wrong, or
15 that Petitioner should be allowed to proceed further. Petitioner has not made the required
16 substantial showing of the denial of a constitutional right. Therefore, the Court declines to issue a
17 certificate of appealability. Based upon the foregoing, the Court **ORDERS**:

- 18 1. The findings and recommendations issued on October 2, 2023 (Doc. 41) are
19 **ADOPTED IN FULL**.
- 20 2. The petition for writ of habeas corpus is **DENIED**.
- 21 3. The Clerk of Court is directed to close this case.
- 22 4. The Court declines to issue a certificate of appealability.

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24 IT IS SO ORDERED.

25 Dated: **December 7, 2023**


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28 UNITED STATES DISTRICT JUDGE