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6	UNITED STATES DISTRICT COURT	
7	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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9	JAMAL EVANS,	No. 1:23-cv-01025-KES-SAB (HC)
10	Petitioner,	ORDER ADOPTING FINDINGS AND
11	v.	RECOMMENDATIONS, DISMISSING PETITION FOR WRIT OF HABEAS
12	S. RODRIGUEZ,	CORPUS WITHOUT PREJUDICE, DIRECTING CLERK OF COURT TO CLOSE
13	Respondent.	CASE, AND DECLINING TO ISSUE CERTIFICATE OF APPEALABILITY
14		(Doc. 6)
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16	Petitioner Jamal Evans is a state prisoner proceeding pro se with a petition for writ of	
17	habeas corpus pursuant to 28 U.S.C. § 2254. This matter was referred to a United States	
18	Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.	
19	On November 14, 2023, the assigned magistrate judge issued findings and	
20	recommendations recommending that the petition be dismissed without prejudice for failure to	
21	exhaust state judicial remedies. (Doc. 6.) The findings and recommendations were served on the	
22	parties and contained notice that any objections were to be filed within thirty (30) days of the date	
23	of service of the findings and recommendations. <i>Id.</i> On January 2, 2024, the Court granted	
24	Petitioner a sixty-day extension of time to file his objections. (Doc. 9.) To date, no objections	
25	have been filed, and the time for doing so has passed.	
26	In accordance with the provisions of 28 U.S.C. § 636(b)(1), the Court has conducted a de	
27	novo review of the case. Having carefully reviewed the entire file, the Court holds the findings	
28	and recommendations to be supported by the record and proper analysis.	

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Having found that Petitioner is not entitled to habeas relief, the Court now turns to whether a certificate of appealability should issue. A petitioner seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of his petition, and an appeal is only allowed in certain circumstances. Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003); 28 U.S.C. § 2253. Where, as here, the Court denies habeas relief on procedural grounds without reaching the underlying constitutional claims, the Court should issue a certificate of appealability "if jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000). "Where a plain procedural bar is present and the district court is correct to invoke it to dispose of the case, a reasonable jurist could not conclude either that the district court erred in dismissing the petition or that the petitioner should be allowed to proceed further." *Id.*

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

Accordingly:

- 1. The findings and recommendations issued on November 14, 2023 (Doc. 6) are adopted in full;
- 2. The petition for writ of habeas corpus is dismissed without prejudice;
- 3. The Clerk of Court is directed to close the case; and
- 4. The Court declines to issue a certificate of appealability.

IT IS SO ORDERED.

Dated: March 27, 2024