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8	UNITED STATES DISTRICT COURT		
9	EASTERN DISTRICT OF CALIFORNIA		
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11	CHRISTINA MOORE,	No. 1:23-cv-1065-JLT SAB (HC)	
12	Petitioner,	ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, DENYING	
13	v.	PETITIONER'S MOTION TO STAY, DISMISSING PETITION FOR WRIT OF	
14	THE PEOPLE OF CALIFORNIA,	HABEAS CORPUS WITHOUT PREJUDICE, DIRECTING CLERK OF COURT TO CLOSE	
15	Respondent.	CASE, AND DECLINING TO ISSUE CERTIFICATE OF APPEALABILITY	
16		(Doc. 7)	
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19	Christina Moore is proceeding <i>pro se</i> with a petition for writ of habeas corpus. This		
20	matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and		
21	Local Rule 302.		
22	The magistrate judge issued Findings and Recommendations, finding Petitioner did not		
23	exhaust her state judicial remedies. (Doc. 7 at 1-3.) To the extent Petitioner requested a stay, the		
24	magistrate judge found she was not entitled to one, as Petitioner did not demonstrate good cause		
25	and the petition was completely unexhausted. (Id. at 2-3, citing Rhines v. Weber, 544 U.S. 269		
26	(2005), King v. Ryan, 564 F.3d 1133, 1135 (9th Cir. 2009).) Therefore, the magistrate judge		
27	recommended Petitioner's motion to stay be denied and the petition for writ of habeas corpus be		
28	dismissed without prejudice for failure to exhaust state judicial remedies. (Id. at 3.) The Court		

served the Findings and Recommendations on Petitioner and notified him that any objections were to be filed within 30 days after service. (*d.* at 3.) The Court also informed Petitioner was that the "failure to file objections within the specified time may waive the right to appeal the District Court's order." (*Id.* at 3-4, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014).) Petitioner did not file objections, and the time for doing so passed.

According to 28 U.S.C. § 636(b)(1)(C), the Court performed a *de novo* review of the case. Having carefully reviewed the entire file, the Court holds the findings and recommendation to be supported by the record and proper analysis.

Having found that Petitioner is not entitled to habeas relief, the Court 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 this case, the Court finds that reasonable jurists would not find the 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. Thus, the Court **ORDERS**:

- The Findings and Recommendations issued on October 3, 2023 (Doc. 7) are
 ADOPTED in full.
- 2. Petitioner's motion to stay (Doc. 5) is **DENIED**.

¹ The Findings and Recommendations were signed on October 2, 2023, and served on October 3, 2023.

1	3.	The petition for writ of habeas corpus is DISMISSED without prejudice.	
2	4.	The Clerk of Court is directed to close the case.	
3	5.	The Court declines to issue a certificate of appealability.	
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5	IT IS SO O	RDERED.	00 : 44 1 7 1 12
6	Dated:	December 7, 2023	Olymph L. Thursh United states district judge
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