



1           Having reviewed the file under the applicable legal standards, the Court finds the Findings  
2 and Recommendations to be supported by the record and by the magistrate judge’s analysis.

3           Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the Court has  
4 considered whether to issue a certificate of appealability. Before Petitioner can appeal this  
5 decision, a certificate of appealability must issue. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).  
6 Where the petition is denied on the merits, a certificate of appealability may issue under 28  
7 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a  
8 constitutional right.” 28 U.S.C. § 2253(c)(2). The Court must either issue a certificate of  
9 appealability indicating which issues satisfy the required showing or must state the reasons why  
10 such a certificate should not issue. See Fed. R. App. P. 22(b). Where the petition is dismissed on  
11 procedural grounds, a certificate of appealability “should issue if the prisoner can show: (1) ‘that  
12 jurists of reason would find it debatable whether the district court was correct in its procedural  
13 ruling’; and (2) ‘that jurists of reason would find it debatable whether the petition states a valid  
14 claim of the denial of a constitutional right.’” *Morris v. Woodford*, 229 F.3d 775, 780 (9th Cir.  
15 2000) (quoting *Slack v. McDaniel*, 529 U.S. 473, 120 S. Ct. 1595, 1604 (2000)). For the reasons  
16 set forth in the magistrate judge’s Findings and Recommendations (ECF No. 55), the Court finds  
17 that issuance of a certificate of appealability is not warranted in this case.

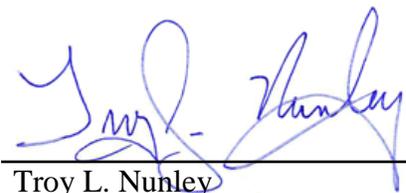
18           Accordingly, IT IS HEREBY ORDERED that:

- 19           1. The Findings and Recommendations filed September 10, 2020 (ECF No. 55), are  
20 adopted in full;
- 21           2. Petitioner’s Application for a Writ of Habeas Corpus is DENIED as moot as a result of  
22 his death on May 9, 2019;
- 23           3. The Clerk of the Court is directed to close this case; and
- 24           4. The Court declines to issue the Certificate of Appealability referenced in 28 U.S.C.  
25 § 2253.

26           IT IS SO ORDERED.

27           DATED: October 21, 2020

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Troy L. Nunley  
United States District Judge