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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ELLEN K. RICHARDSON,

No. 2:14-cv-0244-CMK-P

Petitioner,

vs.

ORDER

D.K. JOHNSON,

Respondent.

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c) and no other party has been served or appeared in the action. Pending before the court is petitioner’s petition for a writ of habeas corpus (Doc. 1).

On February 24, 2016, the court issued petitioner an order to show cause why her petition for a writ of habeas corpus should not be summarily dismissed. Petitioner filed her response with a motion for summary judgment. While she requests the court grant her summary judgment, she fails to provided the court with any additional information which could be used to find this court has jurisdiction over her challenge to a restitution order. See Bailey v. Hill, 599 F.3d 976, 980 (9th Cir. 2010). Petitioner has thus failed to show cause why her petition should

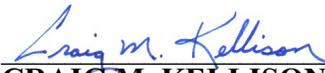
1 not be dismissed.

2 Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the  
3 court has considered whether to issue a certificate of appealability. Before petitioner can appeal  
4 this decision, a certificate of appealability must issue. See 28 U.S.C. § 2253(c); Fed. R. App. P.  
5 22(b). Where the petition is denied on the merits, a certificate of appealability may issue under  
6 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a  
7 constitutional right.” 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of  
8 appealability indicating which issues satisfy the required showing or must state the reasons why  
9 such a certificate should not issue. See Fed. R. App. P. 22(b). Where the petition is dismissed  
10 on procedural grounds, a certificate of appealability “should issue if the prisoner can show: (1)  
11 ‘that jurists of reason would find it debatable whether the district court was correct in its  
12 procedural ruling’; and (2) ‘that jurists of reason would find it debatable whether the petition  
13 states a valid claim of the denial of a constitutional right.’” Morris v. Woodford, 229 F.3d 775,  
14 780 (9th Cir. 2000) (quoting Slack v. McDaniel, 529 U.S. 473, 120 S.Ct. 1595, 1604 (2000)).  
15 For the reasons stated above, the court finds that issuance of a certificate of appealability is not  
16 warranted in this case.

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. Petitioner’s petition for a writ of habeas corpus is summarily dismissed;
- 19 2. All other pending motions are denied as moot;
- 20 3. No certificate of appealability shall issue; and
- 21 3. The Clerk of the Court is directed to close this case.

22  
23 DATED: October 12, 2016

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25 **CRAIG M. KELLISON**  
26 UNITED STATES MAGISTRATE JUDGE