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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 MACK CUDGO, JR.,

12 Petitioner,

13 v.

14 M. LEA,

15 Respondent.
16

No. 2:14-cv-0691 CKD P

ORDER

17 Petitioner, a state prisoner proceeding pro se, has appealed the February 12, 2015
18 dismissal of his petition for untimeliness. As the order of dismissal did not address whether a
19 certificate of appealability should issue, the court does so here.¹

20 A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has
21 made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2).
22 Where the petition was dismissed on procedural grounds, a certificate of appealability “should
23 issue if the prisoner can show: (1) ‘that jurists of reason would find it debatable whether the
24 district court was correct in its procedural ruling’; and (2) ‘that jurists of reason would find it
25 debatable whether the petition states a valid claim of the denial of a constitutional right.’” Morris
26 v. Woodford, 229 F.3d 775, 780 (9th Cir. 2000) (quoting Slack v. McDaniel, 529 U.S. 473, 484


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28 ¹ Petitioner has consented to this court’s jurisdiction to conduct all proceedings in this action.
(ECF No. 13.)

1 (2000)).

2 After review of the record herein, this court finds that petitioner has not satisfied the
3 requirement for issuance of a certificate of appealability in this case. Accordingly, a certificate of
4 appealability will not issue in this action.

5 IT IS SO ORDERED.

6 Dated: March 12, 2015

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CAROLYN K. DELANEY
8 UNITED STATES MAGISTRATE JUDGE

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