

1 This Court reviews de novo those portions of the proposed findings of fact to which
2 objection has been made. 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore*
3 *Business Machines*, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). As
4 to any portion of the proposed findings of fact to which no objection has been made, the Court
5 assumes its correctness and decides the motions on the applicable law. See *Orand v. United*
6 *States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s conclusions of law are
7 reviewed de novo. See *Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

8 Having carefully reviewed the entire file under the applicable legal standards, the Court
9 finds the Findings and Recommendations to be supported by the record and by the magistrate
10 judge’s analysis.

11 Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the Court has
12 considered whether to issue a certificate of appealability. Before Petitioner can appeal this
13 decision, a certificate of appealability must issue. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).
14 Where the petition is denied on the merits, a certificate of appealability may issue under 28
15 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a
16 constitutional right.” 28 U.S.C. § 2253(c)(2). The Court must either issue a certificate of
17 appealability indicating which issues satisfy the required showing or must state the reasons why
18 such a certificate should not issue. See Fed. R. App. P. 22(b). Where the petition is dismissed on
19 procedural grounds, a certificate of appealability “should issue if the prisoner can show: (1) ‘that
20 jurists of reason would find it debatable whether the district court was correct in its procedural
21 ruling’; and (2) ‘that jurists of reason would find it debatable whether the petition states a valid
22 claim of the denial of a constitutional right.’” *Morris v. Woodford*, 229 F.3d 775, 780 (9th Cir.
23 2000) (quoting *Slack v. McDaniel*, 529 U.S. 473, 120 S. Ct. 1595, 1604 (2000)).

24 For the reasons set forth in the magistrate judge’s Findings and Recommendations (ECF
25 No. 21), the Court finds that issuance of a certificate of appealability is not warranted in this case.

26 Accordingly, IT IS HEREBY ORDERED that:

27 1. The Findings and Recommendations, filed August 12, 2019 (ECF No. 21), are adopted
28 in full;

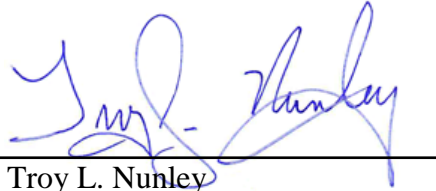
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2. The Petition for Writ of Habeas Corpus (ECF No. 1) is DENIED; and

3. The Court declines to issue the certificate of appealability referenced in 28 U.S.C. § 2253.

IT IS SO ORDERED.

Dated: January 10, 2020



Troy L. Nunley
United States District Judge