1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 RICHARD RAMIREZ, No. 2:17-cv-00619-TLN-KJN 12 Petitioner. 13 **ORDER** v. 14 CHRISTIAN PFEIFFER, Warden, 15 Respondent. 16 17 Petitioner Richard Ramirez ("Petitioner"), a state prisoner proceeding pro se, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to 18 19 a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 On August 12, 2019, the magistrate judge filed findings and recommendations herein 21 which were served on all parties and which contained notice to all parties that any objections to 22 the findings and recommendations were to be filed within fourteen days. (ECF No. 21.) On September 25, 2019, Petitioner filed Objections to the Findings and Recommendations.¹ (ECF 23 No. 24.) On November 5, 2019, Respondent Christian Pfeiffer ("Respondent") filed a Reply to 24 Petitioner's Objections to the Findings and Recommendations.² (ECF No. 27.) 25 26 Petitioner requested, and was granted, an extension of time to file objections to the Findings and Recommendations. (ECF Nos. 22–23.) 27 Respondent also requested, and was granted, an extension of time to file a reply to 28 Petitioner's objections. (ECF Nos. 25–26.) 1

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

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

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

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

Accordingly, IT IS HEREBY ORDERED that:

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

1	2. The Petition for Writ of Habeas Corpus (ECF No. 1) is DENIED; and
2	3. The Court declines to issue the certificate of appealability referenced in 28 U.S.C.
3	§ 2253.
4	IT IS SO ORDERED.
5	Dated: January 10, 2020
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8	Troy L. Nunley United States District Judge
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