1 2 3 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 WILLIE CLYDE WEST, No. 2:17-CV-2076-KJM-DMC-P 12 Petitioner, 13 **ORDER** v. 14 SPEARMAN, 15 Respondent. 16 17 Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to a United States Magistrate 18 19 Judge as provided by Eastern District of California local rules. 20 On February 18, 2021, the Magistrate Judge filed findings and recommendations, 21 which were served on the parties and which contained notice that the parties may file objections 22 within the time specified therein. Timely objections to the findings and recommendations have been filed. 23 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, 24 25 this court has conducted a *de novo* review of this case. Having reviewed the file, the court finds 26 the findings and recommendations to be supported by the record and by the proper analysis. 27 Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the 28 court has considered whether to issue a certificate of appealability. Before petitioner can appeal 1

1	this decision, a certificate of appealability must issue. See 28 U.S.C. § 2253(c); Fed. R. App. P.
2	22(b). Where the petition is denied on the merits, a certificate of appealability may issue under
3	28 U.S.C. § 2253 "only if the applicant has made a substantial showing of the denial of a
4	constitutional right." 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of
5	appealability indicating which issues satisfy the required showing or must state the reasons why
6	such a certificate should not issue. See Fed. R. App. P. 22(b). Where the petition is dismissed on
7	procedural grounds, a certificate of appealability "should issue if the prisoner can show: (1) 'that
8	jurists of reason would find it debatable whether the district court was correct in its procedural
9	ruling'; and (2) 'that jurists of reason would find it debatable whether the petition states a valid
10	claim of the denial of a constitutional right." Morris v. Woodford, 229 F.3d 775, 780 (9th Cir.
11	2000) (quoting <i>Slack v. McDaniel</i> , 529 U.S. 473, 120 S.Ct. 1595, 1604 (2000)). For the reasons
12	set forth in the Magistrate Judge's findings and recommendations, the court finds that issuance of
13	a certificate of appealability is not warranted in this case.
14	Accordingly, IT IS HEREBY ORDERED that:
15	1. The findings and recommendations filed February 18, 2021, are adopted in
16	full;
17	2. Petitioner's petition for a writ of habeas corpus, ECF No. 1, is denied;
18	3. The Court declines to issue a certificate of appealability; and
19	4. The Clerk of the Court is directed to enter judgment and close this file.
20	DATED: September 27, 2021.
21	100 20 10
22	CHIEF INITED STATES DISTRICT HIDGE
23	CHIEF UNITED STATES DISTRICT JUDGE