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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

JAKE CLARK,  
  
                                    Petitioner,  
  
          v.  
  
RAYTHEL FISHER, JR.,  
  
                                    Respondent.

No. 2:17-cv-02574-TLN-GGH

**ORDER**

Petitioner Jake Clark, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 19, 2019, the magistrate judge filed findings and recommendations herein which were served on Petitioner and which contained notice to Petitioner that any objections to the findings and recommendations were to be filed within twenty-one (21) days. (ECF No. 43.) Petitioner has not filed any objections to the findings and recommendations.

Accordingly, the Court presumes that any findings of fact are correct. 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 School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983); see also 28 U.S.C. § 636(b)(1). Having reviewed the file, the Court finds the Findings and Recommendations to be supported by the record and by the magistrate judge’s analysis.

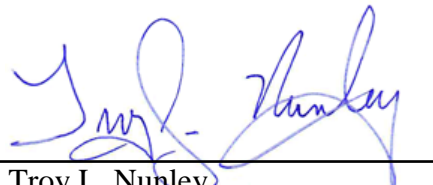
1 Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the Court has  
2 considered whether to issue a certificate of appealability. Before Petitioner can appeal this  
3 decision, a certificate of appealability must issue. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).  
4 Where the petition is denied on the merits, a certificate of appealability may issue under 28  
5 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a  
6 constitutional right.” 28 U.S.C. § 2253(c)(2). The Court must either issue a certificate of  
7 appealability indicating which issues satisfy the required showing or must state the reasons why  
8 such a certificate should not issue. See Fed. R. App. P. 22(b). Where the petition is dismissed on  
9 procedural grounds, a certificate of appealability “should issue if the prisoner can show: (1) ‘that  
10 jurists of reason would find it debatable whether the district court was correct in its procedural  
11 ruling’; and (2) ‘that jurists of reason would find it debatable whether the petition states a valid  
12 claim of the denial of a constitutional right.’” *Morris v. Woodford*, 229 F.3d 775, 780 (9th Cir.  
13 2000) (quoting *Slack v. McDaniel*, 529 U.S. 473, 120 S. Ct. 1595, 1604 (2000)). For the reasons  
14 set forth in the magistrate judge’s Findings and Recommendations (ECF No. 43), the Court finds  
15 that issuance of a certificate of appealability is not warranted in this case.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. The Findings and Recommendations, filed August 19, 2019 (ECF No. 43), are adopted  
18 in full;
- 19 2. The Petition for Writ of Habeas Corpus (ECF No. 1) is DISMISSED; and
- 20 3. The Court declines to issue the certificate of appealability referenced in 28 U.S.C. §  
21 2253.

22 IT IS SO ORDERED.

23 Dated: October 29, 2019

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27 Troy L. Nunley  
28 United States District Judge