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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	PASQUALE PATRICK SENATORE,	No. 2:18-cv-00325-DAD-AC (HC)
12	Petitioner,	ORDER ADOPTING FINDINGS AND
13	v.	RECOMMENDATIONS AND DENYING PETITION FOR HABEAS RELIEF
14	RAYTHEL FISCHER, Warden,	(Doc. Nos. 1, 18)
15	Respondent.	
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17	Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus	
18	pursuant to 28 U.S.C. § 2254 in which he challenges his 2013 state court conviction for rape and	
19	lewd and lascivious acts on a minor. (Doc. No. 1.) The matter was referred to a United States	
20	Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.	
21	On August 21, 2023, the assigned magistrate judge issued findings and recommendations	
22	recommending that the pending petition for federal habeas relief be denied. (Doc. No. 18.)	
23	Specifically, the findings and recommendations concluded that the state court did not	
24	unreasonably apply Supreme Court precedent in rejecting petitioner's claim challenging the	
25	exclusion of his sisters' testimony at his trial to corroborate his motivation for living "off the	
26	grid" while in New York. (Id. at 8–12.) In addition, the findings and recommendations	
27	concluded that petitioner's second claim, in which he challenges the sentence imposed upon him	
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as an erroneous application of California law, contained no assertion of a federal constitutional
 violation and therefore failed to state a cognizable claim for federal habeas relief. (*Id.* at 13.)

The findings and recommendations were served on petitioner with notice that any objections thereto were to be filed within twenty-one (21) days of the date of their service. No objections to the pending findings and recommendations have been filed with the court, and the time for doing so has passed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, the undersigned concludes
that the magistrate judge's findings and recommendations are supported by the record and proper
analysis. Therefore, the findings and recommendations will be adopted and petitioner's request
for federal habeas relief will be denied on the merits.

12 In addition, the court declines to issue a certificate of appealability. A petitioner seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of his petition, 13 14 and an appeal is only allowed in certain circumstances. Miller-El v. Cockrell, 537 U.S. 322, 335-15 36 (2003); 28 U.S.C. § 2253. If a court denies a habeas petition on the merits, the court may only 16 issue a certificate of appealability if "jurists of reason could disagree with the district court's 17 resolution of [the petitioner's] constitutional claims or that jurists could conclude the issues 18 presented are adequate to deserve encouragement to proceed further." *Miller-El*, 537 U.S. at 327; 19 see also Slack v. McDaniel, 529 U.S. 473, 484 (2000). While the petitioner is not required to 20 prove the merits of his case, he must demonstrate "something more than the absence of frivolity 21 or the existence of mere good faith on his ... part." Miller-El, 537 U.S. at 338. In the present 22 case, the court concludes that reasonable jurists would not find the court's determination that the 23 petition should be denied debatable or wrong, or that the issues presented are deserving of 24 encouragement to proceed further. Petitioner has not made the required substantial showing of 25 the denial of a constitutional right. Therefore, the court will decline to issue a certificate of 26 appealability.

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1	Accordingly:	
2	1. The findings and recommendations issued on August 21, 2023 (Doc. No. 18) are	
3	adopted in full;	
4	2. The petition for writ of habeas corpus (Doc. No. 1) is denied;	
5	3. The court declines to issue a certificate of appealability (28 U.S.C. § 2253(c)); and	
6	4. The Clerk of the Court is directed to close this case.	
7	IT IS SO ORDERED.	
8	Dated: November 18, 2023 Dale A. Drozd	
9	DALE A. DROZD UNITED STATES DISTRICT JUDGE	
10	CIVILD STATES DISTRICT JUDGE	
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