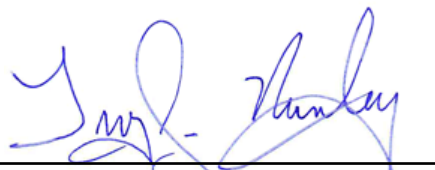


1 Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the Court has
2 considered whether to issue a certificate of appealability. Before Petitioner can appeal this
3 decision, a certificate of appealability must issue. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).
4 Where the 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, the Court finds that issuance of
15 a certificate of appealability is not warranted in this case.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. The findings and recommendations filed November 10, 2021, (ECF No. 29), are
18 adopted in full;
- 19 2. Petitioner’s petition for a writ of habeas corpus, (ECF No. 1), is denied;
- 20 3. The Court declines to issue a certificate of appealability; and
- 21 4. The Clerk of the Court is directed to enter judgment and close tis file.

22 **DATED: January 10, 2022**

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26 Troy L. Nunley
United States District Judge