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

CHAYNE E. IRVIN,
Petitioner,
v.
JOE A. LIZARRAGA,
Respondent.

No. 2:19-cv-00035-TLN-EFB

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (ECF No. 1.) 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 July 24, 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 fourteen days. (ECF No. 9.) On August 9, 2019, Petitioner filed objections to the findings and recommendations. (ECF No. 10.)

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*

1 States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are
2 reviewed de novo. See *Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).
3 Having carefully reviewed the entire file, the court finds the findings and recommendations to be
4 supported by the record and by proper analysis.

5 Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the Court has
6 considered whether to issue a certificate of appealability. Before Petitioner can appeal this
7 decision, a certificate of appealability must issue. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).
8 Where the petition is denied on the merits, a certificate of appealability may issue under 28
9 U.S.C. § 2253 "only if the applicant has made a substantial showing of the denial of a
10 constitutional right." 28 U.S.C. § 2253(c)(2). The Court must either issue a certificate of
11 appealability indicating which issues satisfy the required showing or must state the reasons why
12 such a certificate should not issue. See Fed. R. App. P. 22(b). Where the petition is dismissed on
13 procedural grounds, a certificate of appealability "should issue if the prisoner can show: (1) 'that
14 jurists of reason would find it debatable whether the district court was correct in its procedural
15 ruling'; and (2) 'that jurists of reason would find it debatable whether the petition states a valid
16 claim of the denial of a constitutional right.'" *Morris v. Woodford*, 229 F.3d 775, 780 (9th Cir.
17 2000) (quoting *Slack v. McDaniel*, 529 U.S. 473, 120 S. Ct. 1595, 1604 (2000)).

18 In his Objections to Magistrate Judge's Findings and Recommendations, Petitioner
19 requests a certificate of appealability on the basis that he has "shown that reasonable Jurists
20 would find it debateable [sic] that he has been denied 'Honest Services' by the California Judge's
21 (28 USC 530B) as the Judges are 'Inactive Members' of the State Bar." (ECF No. 10 at 3.)
22 Petitioner, however, provides no further legal or factual argument in support of his contention.
23 Thus, for the reasons set forth in the magistrate judge's Findings and Recommendations (ECF
24 No. 9), the Court finds that issuance of a certificate of appealability is not warranted in this case.

25 Accordingly, IT IS HEREBY ORDERED that:

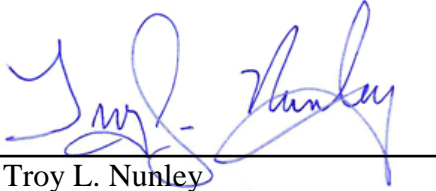
- 26 1. The Findings and Recommendations, filed July 24, 2019 (ECF No. 9), are adopted in
27 full;
- 28 2. Petitioner's Petition (ECF No. 1) is DISMISSED;

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- 3. The Clerk of the Court is directed to close the case; and
- 4. The court declines to issue a certificate of appealability.

IT IS SO ORDERED.

Dated: September 30, 2019



Troy L. Nunley
United States District Judge