

1 Having reviewed the file under the applicable legal standards, the Court finds the Findings
2 and Recommendations to be supported by the record and by the magistrate judge's analysis.

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


16 For the reasons set forth in the magistrate judge's Findings and Recommendations (ECF
17 No. 7), the Court finds that issuance of a certificate of appealability is not warranted in this case.

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. The Findings and Recommendations filed March 19, 2020 (ECF No. 7), are adopted in
20 full;
- 21 2. This action is DISMISSED for lack of jurisdiction;
- 22 3. The Clerk is directed to close the case; and
- 23 4. The Court declines to issue a certificate of appealability.

24 IT IS SO ORDERED.

25 DATED: April 27, 2020

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Troy L. Nunley
United States District Judge