	Case 2:19-cv-02277-JAM-DMC Docume	nt 20 Filed 03/01/21 Page 1 of 2	
1			
2			
3			
4			
5			
6			
7			
8	IN THE UNITED STATES DISTRICT COURT		
9	FOR THE EASTERN DISTRICT OF CALIFORNIA		
10			
11	ALFRED L. BROOKS,	No. 2:19-CV-2277-JAM-DMC-P	
12	Petitioner,		
13	v.	ORDER	
14	DEAN BORDERS,		
15	Respondent.		
16			
17	Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of		
18	habeas corpus under 28 U.S.C. § 2254. The matter was referred to a United States Magistrate		
19	Judge pursuant to Eastern District of California local rules.		
20	On December 9, 2020, the Magistrate Judge issued findings and recommendations		
21	herein which were served on the parties and which contained notice that the parties may file		
22	objections within the time specified therein. ECF No. 19. The Magistrate Judge recommended		
23	granting the motion and dismissing Petitioner's petition. Id. Petitioner has not objected.		
24	In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule		
25	304(f), this Court has conducted a <u>de novo</u> review of this case. Having carefully reviewed the		
26	entire file, the Court finds the findings and recommendations to be supported by the record and by		
27	proper analysis.		
28	///		
	1		

## Case 2:19-cv-02277-JAM-DMC Document 20 Filed 03/01/21 Page 2 of 2

1	Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the		
2			
	Court has considered whether to issue a certificate of appealability. Before Petitioner can appeal		
3	this decision, a certificate of appealability must issue. See 28 U.S.C. § 2253(c); Fed. R. App. P.		
4	22(b). Where the petition is denied on the merits, a certificate of appealability may issue under		
5	28 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 <u>Slack v. McDaniel</u> , 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 (ECF No. 19) filed December 9, 2020,		
18	are adopted in full;		
19	2. Respondent's motion to dismiss (ECF No. 12) is GRANTED and the		
20	petition is dismissed;		
21	3. The Court declines to issue a certificate of appealability; and		
22	4. The Clerk of the Court is directed to enter judgment and close this file.		
23			
24			
25	DATED: March 1, 2021 /s/ John A. Mendez		
26	THE HONORABLE JOHN A. MENDEZ UNITED STATES DISTRICT COURT JUDGE		
27			
28			
	2		