



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, 484–85 (2000)). For the reasons set forth in the  
16 magistrate judge’s Findings and Recommendations (ECF No. 15), the Court finds that issuance of  
17 a certificate of appealability is not warranted in this case.

18           Accordingly, IT IS HEREBY ORDERED that:

- 19           1. The Findings and Recommendations filed November 2, 2020 (ECF No. 15), are  
20 adopted in full;
- 21           2. Respondent’s Motion to Dismiss (ECF No. 11) is GRANTED based on Petitioner’s  
22 failure to exhaust his state court remedies;
- 23           3. Petitioner’s Application for a Writ of Habeas Corpus (ECF No. 1) is DISMISSED  
24 without prejudice;
- 25           4. The Court declines to issue the certificate of appealability referenced in 28 U.S.C. §  
26 2253; and

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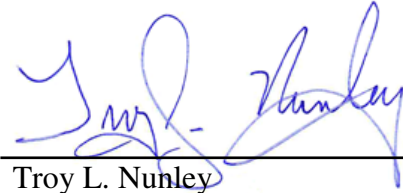
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5. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

DATED: December 17, 2020



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Troy L. Nunley  
United States District Judge