(HC) Lambert v. Long			Ooc. 19
1 2 3 4 5 6 7			
8	IN THE UNITED ST	ATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA		
10			
11	BRENT JEFFERY LAMBERT,	No. 2:20-CV-0440-JAM-DMC-P	
12	Petitioner,		
13	v.	<u>ORDER</u>	
14	D. LONG,		
15	Respondent.		
16			
17	Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of		
18	habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States		
19	Magistrate Judge pursuant to Eastern District of California local rules.		
20	On March 12, 2021, the Magistrate Judge filed 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. No objections to the findings and recommendations		
23	have been filed.		
24	The Court has reviewed the file and finds the findings and recommendations to be		
25	supported by the record and by the Magistrate Judge's analysis.		
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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 or		
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 filed March 12, 2021, are adopted in		
18	full;		
19	2. Respondent's unopposed motion to dismiss, ECF No. 16, is granted;		
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 this file.		

DATED: April 26, 2021

/s/ John A. Mendez

THE HONORABLE JOHN A. MENDEZ UNITED STATES DISTRICT COURT JUDGE