



1 findings of fact to which no objection has been made, the Court assumes its correctness and  
2 decides the motions on the applicable law. *See Orand v. United States*, 602 F.2d 207, 208 (9th  
3 Cir. 1979). The magistrate judge’s conclusions of law are reviewed *de novo*. *See Britt v. Simi*  
4 *Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

5 Having carefully reviewed the entire file under the applicable legal standards, the Court  
6 finds the Findings and Recommendations to be supported by the record and by the magistrate  
7 judge’s analysis.

8 The Court notes Petitioner’s so called “Objections” do not actually challenge or object to  
9 any of the findings in the Findings and Recommendations. (*See* ECF No. 10.) As such, they are  
10 overruled. As to Petitioner’s First Amended Petition, filed concurrently with his Objections and  
11 without leave of the Court (ECF No. 9), the Court construes the filing as a motion seeking leave  
12 to amend and hereby DENIES Petitioner’s motion. Furthermore, the proposed Amended Petition  
13 raises the same claims as the original Petition, which were correctly addressed and rejected by the  
14 Findings and Recommendations. (*See* ECF Nos. 1, 7, 9.)

15 Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the Court has  
16 considered whether to issue a certificate of appealability. Before Petitioner can appeal this  
17 decision, a certificate of appealability must issue. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).  
18 Where the petition is denied on the merits, a certificate of appealability may issue under 28  
19 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a  
20 constitutional right.” 28 U.S.C. § 2253(c)(2). The Court must either issue a certificate of  
21 appealability indicating which issues satisfy the required showing or must state the reasons why  
22 such a certificate should not issue. *See* Fed. R. App. P. 22(b). Where the petition is dismissed on  
23 procedural grounds, a certificate of appealability “should issue if the prisoner can show: (1) ‘that  
24 jurists of reason would find it debatable whether the district court was correct in its procedural  
25 ruling’; and (2) ‘that jurists of reason would find it debatable whether the petition states a valid  
26 claim of the denial of a constitutional right.’” *Morris v. Woodford*, 229 F.3d 775, 780 (9th Cir.  
27 2000) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)). For the reasons set forth in the

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1 Findings and Recommendations (ECF No. 7), the Court finds that issuance of a certificate of  
2 appealability is not warranted in this case.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The Findings and Recommendations filed June 19, 2020 (ECF No. 7), are adopted in  
5 full;

6 2. The Petition for Writ of Habeas Corpus (ECF No. 1) is summarily DISMISSED for  
7 failure to state a claim;

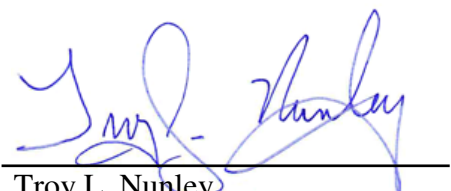
8 3. Petitioner's First Amended Petition for Writ of Habeas Corpus (ECF No. 9) is  
9 DISMISSED and, to the extent it is construed as a Motion for Leave to Amend the Petition,  
10 such motion is DENIED; and

11 4. The court declines to issue the certificate of appealability referenced in 28 U.S.C. §  
12 2253.

13 IT IS SO ORDERED.

14 DATED: December 17, 2020

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Troy L. Nunley  
United States District Judge