



1 *Business Machines*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert. denied*, 455 U.S. 920 (1982); *see*  
2 *also Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009). As to any portion of the proposed  
3 findings of fact to which no objection has been made, the Court assumes its correctness and  
4 decides the motions on the applicable law. *See Orand v. United States*, 602 F.2d 207, 208 (9th  
5 Cir. 1979). The magistrate judge’s conclusions of law are reviewed *de novo*. *See Britt v. Simi*  
6 *Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

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

9 Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the Court has  
10 considered whether to issue a certificate of appealability. Before Petitioner can appeal this  
11 decision, a certificate of appealability must issue. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).  
12 Where the petition is denied on the merits, a certificate of appealability may issue under 28  
13 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a  
14 constitutional right.” 28 U.S.C. § 2253(c)(2). The Court must either issue a certificate of  
15 appealability indicating which issues satisfy the required showing or must state the reasons why  
16 such a certificate should not issue. *See* Fed. R. App. P. 22(b). Where the petition is dismissed on  
17 procedural grounds, a certificate of appealability “should issue if the prisoner can show: (1) ‘that  
18 jurists of reason would find it debatable whether the district court was correct in its procedural  
19 ruling’; and (2) ‘that jurists of reason would find it debatable whether the petition states a valid  
20 claim of the denial of a constitutional right.’” *Morris v. Woodford*, 229 F.3d 775, 780 (9th Cir.  
21 2000) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484–85 (2000)). For the reasons set forth in the  
22 Findings and Recommendations (ECF No. 7), the Court finds that issuance of a certificate of  
23 appealability is not warranted in this case.

24 Accordingly, IT IS HEREBY ORDERED that:

25 1. The Findings and Recommendations filed January 20, 2021 (ECF No. 7), are  
26 ADOPTED IN FULL;

27 2. The Petition is DISMISSED;

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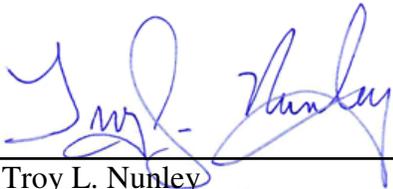
1           3. The Court declines to issue the certificate of appealability referenced in 28 U.S.C.  
2 § 2253; and

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

4           IT IS SO ORDERED.

5           DATED: February 12, 2021

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Troy L. Nunley  
United States District Judge