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8	IN THE UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	GINA DAWN MUNOZ,	No. 2:20-CV-2168-KJM-DMC-P
12	Petitioner,	<u>ORDER</u>
13	v.	
14	M. PALLARES,	
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 as provided by Eastern District of California local rules.	
20	On May 27, 2021, the Magistrate Judge filed findings and recommendations,	
21	which were served on the parties and which contained notice that the parties may file objections	
22	within the time specified therein. No objections to the findings and recommendations have been	
23	filed.	
24	The court presumes that any findings of fact are correct. See Orand v. United	
25	States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are	
26	reviewed de novo. See Robbins v. Carey, 481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations	
27	of law by the magistrate judge are reviewed de novo by both the district court and [the appellate]	
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- 1 court"). Having reviewed the file, the court finds the findings and recommendations to be 2 supported by the record and by the proper analysis.
- 3 Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the 4 Court has considered whether to issue a certificate of appealability. Before Petitioner can appeal 5 this decision, a certificate of appealability must issue. See 28 U.S.C. § 2253(c); Fed. R. App. P. 6 22(b). Where the petition is denied on the merits, a certificate of appealability may issue under 7 28 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. \S 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, 120 S. Ct. 1595, 1604 (2000)). For the reasons 16 set forth in the Magistrate Judge's findings and recommendations, 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 May 27, 2021, are adopted in full; 2. 20 This action is dismissed without prejudice for lack of prosecution and 21 failure to comply with court rules and orders; 22 3. The Court declines to issue a certificate of appealability; and 23 4. The Clerk of the Court is directed to enter judgment and close this file. 24 DATED: July 23, 2021. 25 26 CHIEF UNITED STATES DISTRICT JUDGE 27 28 2