

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. § 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;
- 20 2. 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 
27 CHIEF UNITED STATES DISTRICT JUDGE
28