



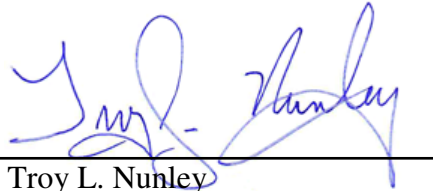
1 Where the petition is denied on the merits, a certificate of appealability may issue under 28  
2 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a  
3 constitutional right.” 28 U.S.C. § 2253(c)(2). The Court must either issue a certificate of  
4 appealability indicating which issues satisfy the required showing or must state the reasons why  
5 such a certificate should not issue. *See* Fed. R. App. P. 22(b). Where the petition is dismissed on  
6 procedural grounds, a certificate of appealability “should issue if the prisoner can show: (1) ‘that  
7 jurists of reason would find it debatable whether the district court was correct in its procedural  
8 ruling’; and (2) ‘that jurists of reason would find it debatable whether the petition states a valid  
9 claim of the denial of a constitutional right.’” *Morris v. Woodford*, 229 F.3d 775, 780 (9th Cir.  
10 2000) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484–85 (2000)). For the reasons set forth in the  
11 Findings and Recommendations (ECF No. 6), the Court finds that issuance of a certificate of  
12 appealability is not warranted in this case.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The Findings and Recommendations filed May 27, 2021 (ECF No. 6), are ADOPTED  
15 IN FULL;
- 16 2. This action is DISMISSED without prejudice for lack of prosecution and failure to  
17 comply with the Court’s rules and Orders;
- 18 3. The Court declines to issue a certificate of appealability; and
- 19 4. The Clerk of the Court is directed to enter judgment and close this file.

20 IT IS SO ORDERED.

21 DATED: August 4, 2021

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24 Troy L. Nunley  
25 United States District Judge  
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