



1           Although it appears from the file that plaintiff’s copy of the findings and  
2 recommendations was returned, plaintiff was properly served. It is the plaintiff’s responsibility to  
3 keep the court apprised of his current address at all times. Under Local Rule 182(f), service of  
4 documents at the record address of the party is fully effective.

5           Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the  
6 Court has considered whether to issue a certificate of appealability. Before Petitioner can appeal  
7 this decision, a certificate of appealability must issue. *See* 28 U.S.C. § 2253(c); Fed. R. App. P.  
8 22(b). Where the petition is denied on the merits, a certificate of appealability may issue under  
9 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a  
10 constitutional right.” 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of  
11 appealability indicating which issues satisfy the required showing or must state the reasons why  
12 such a certificate should not issue. *See* Fed. R. App. P. 22(b). Where the petition is dismissed on  
13 procedural grounds, a certificate of appealability “should issue if the prisoner can show: (1) ‘that  
14 jurists of reason would find it debatable whether the district court was correct in its procedural  
15 ruling’; and (2) ‘that jurists of reason would find it debatable whether the petition states a valid  
16 claim of the denial of a constitutional right.’” *Morris v. Woodford*, 229 F.3d 775, 780 (9th Cir.  
17 2000) (quoting *Slack v. McDaniel*, 529 U.S. 473, 120 S.Ct. 1595, 1604 (2000)). For the reasons  
18 set forth in the Magistrate Judge’s findings and recommendations, the Court finds that issuance of  
19 a certificate of appealability is not warranted in this case.

20           Accordingly, IT IS HEREBY ORDERED that:

- 21           1.     The findings and recommendations filed December 3, 2021, are adopted in  
22 full;
- 23           2.     This action is dismissed without prejudice for lack of prosecution and  
24 failure to comply with court rules and orders;
- 25           3.     The Court declines to issue a certificate of appealability; and
- 26           4.     The Clerk of the Court is directed to enter judgment and close this file.

27 DATED: January 7, 2022.

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CHIEF UNITED STATES DISTRICT JUDGE