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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	ELIJAH RICHTER,	No. 2:21-cv-01833-DAD-CKD (HC)
12	Petitioner,	
13	v.	ORDER ADOPTING FINDINGS AND
14	PAUL THOMPSON,	RECOMMENDATIONS AND DISMISSING PETITION FOR WRIT OF HABEAS
15	Respondent.	<u>CORPUS</u>
16		(Doc. No. 10)
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18	Petitioner Elijah Richter is a federal prisoner proceeding pro se in this petition for writ of	
19	habeas corpus pursuant to 28 U.S.C. § 2241. The matter was referred to a United States	
20	Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.	
21	On May 3, 2022, the assigned magistrate judge issued findings and recommendations,	
22	recommending that the action be dismissed due to petitioner's failure to prosecute and failure to	
23	comply with a court order. (Doc. No. 10.) The findings and recommendations were served on all	
24	parties and contained notice that any objections thereto were to be filed within fourteen (14) days	
25	of service. (<i>Id.</i> at 1–2.) No objections have been filed and the time to do so has since passed.	
26	In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this court has conducted a de	
27	novo review of the case. Having carefully reviewed the entire file, court finds the findings and	
28	recommendations to be supported by the record and proper analysis.	
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1	In addition, having concluded that the pending petition must be dismissed, the court now	
2	turns to whether a certificate of appealability should issue. A state prisoner seeking a writ of	
3	habeas corpus has no absolute entitlement to appeal a district court's denial of his petition, and an	
4	appeal is only allowed in certain circumstances. Miller-El v. Cockrell, 537 U.S. 322, 335-36	
5	(2003); 28 U.S.C. § 2253. Where, as here, the court denies habeas relief on procedural grounds	
6	without reaching the underlying constitutional claims, the court should issue a certificate of	
7	appealability "if jurists of reason would find it debatable whether the petition states a valid claim	
8	of the denial of a constitutional right and that jurists of reason would find it debatable whether the	
9	district court was correct in its procedural ruling." <i>Slack v. McDaniel</i> , 529 U.S. 473, 484 (2000).	
10	In the present case, the court finds that reasonable jurists would not find the court's determination	
11	that the petition should be dismissed debatable or wrong, or that petitioner should be allowed to	
12	proceed further. Therefore, the court declines to issue a certificate of appealability.	
13	Accordingly,	
14	1. The findings and recommendations issued on May 3, 2022 (Doc. No. 10) are	
15	adopted in full;	
16	2. This action is dismissed without prejudice;	
17	3. The court declines to issue the certificate of appealability referenced in 28 U.S.C.	
18	§ 2253; and	
19	4. The Clerk of Court is directed to close this action.	
20	IT IS SO ORDERED.	
21	Dated: September 6, 2022 Dale A. Drozd	
22	UNITED STATES DISTRIC [®] JUDGE	
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