




1 529 U.S. 473, 484-85 (2000). “When the district court denies a habeas petition on  
2 procedural grounds without reaching the prisoner’s underlying constitutional claim, a  
3 COA should issue when the prisoner shows, at least, that jurists of reason would find it  
4 debatable whether the petition states a valid claim of the denial of a constitutional right  
5 and that jurists of reason would find it debatable whether the district court was correct in  
6 its procedural ruling.” Id. at 484; see James v. Giles, 221 F.3d 1074, 1077 (9th Cir.  
7 2000). As each of these components is a “threshold inquiry,” the federal court “may find  
8 that it can dispose of the application in a fair and prompt manner if it proceeds first to  
9 resolve the issue whose answer is more apparent from the record and arguments.” Slack,  
10 529 U.S. at 485. Supreme Court jurisprudence “allows and encourages” federal courts to  
11 first resolve the procedural issue. See id.

12 With regard to the issues before the Court, Petitioner has not shown “that jurists  
13 of reason would find it debatable whether the district court was correct in its procedural  
14 ruling.” Id. at 484. Accordingly, the request for a certificate of appealability is DENIED  
15 (docket no. 6). The Clerk of Court shall forward this order, along with the case file, to  
16 the United States Court of Appeals for the Ninth Circuit. Petitioner may also seek a  
17 certificate of appealability from that court. See Asrar, 116 F.3d at 1270.

18 SO ORDERED.

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20 DATED: 10/29/08

  
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THELTON E. HENDERSON  
United States District Judge