

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**RODERRETTE D. MCCLURE,**

**Petitioner,**

**v.**

**WARDEN FOX,**

**Respondent.**

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**Case No. CIV-16-127-R**

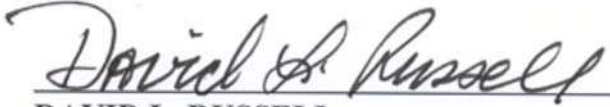
**ORDER**

Before the Court is the Report and Recommendation of United States Magistrate Judge Charles B. Goodwin entered October 31, 2016. Doc. No. 14. No objection to the Report and Recommendation has been filed nor has an extension of time in which to object been sought or granted. Therefore, the Report and Recommendation of the Magistrate Judge is ADOPTED in its entirety and this matter is DISMISSED WITHOUT PREJUDICE.

Further, pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, the undersigned denies Petitioner a Certificate of Appealability. Where a habeas petition is denied on procedural grounds, Petitioner is entitled to a COA only if he demonstrates that “jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Stack v. McDaniel*, 529 U.S. 473, 484, 120 S.Ct. 1595, 146 L.Ed.2d 542 (2000). When a habeas petition is denied on the merits, Petitioner is entitled to a COA only if he

demonstrates “that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327, 123 S.Ct. 1029, 154 L.Ed.2d 931, 944 (2003) (citing *Slack v. McDaniel*, *supra*). Petitioner has not made either showing and is therefore not entitled to a COA.

IT IS SO ORDERED this 30<sup>th</sup> day of November, 2016.

  
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DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE