

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Hoffer v. Gamboa

Hoffer · No. No. 2:25-CV-01253-DC-DMC (HC) · Decided December 31, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 MICHAEL HOFFER, No. 2:25-CV-01253-DC-DMC (HC) 12 Petitioner, 13
v. ORDER ADOPTING FINDINGS AND RECOMMENDATIONS 14 MARTIN GAMBOA,
(Doc. Nos. 12, 13) 15 Respondent. 16 17 Petitioner Michael Hoffer, a state prisoner proceeding
pro se, filed this application for a 18 writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The matter was referred to a United States 19 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)
(B) and Local Rule 302. 20 On November 12, 2025, the magistrate judge filed findings and
recommendations herein, 21 which were served on all parties and contained notice that any
objections to the findings and 22 recommendations were to be filed within fourteen (14) days.

(Doc. No. 13.) Neither party filed 23 objections to the findings and recommendations, and the
time to do so has passed. 24 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and
Local Rule 304, this 25 court has conducted a de novo review of this case.

Having carefully reviewed the entire file, the 26 court finds the findings and recommendations to
be supported by the record and by proper 27 analysis. 28 Having concluded that the pending
petition must be dismissed, the court also declines to 1 | issue a certificate of appealability. A
petitioner seeking writ of habeas corpus has no absolute 2 | right to appeal; he may appeal only in
limited circumstances.

See 28 U.S.C. § 2253; *Miller-El v. 3 | Cockrell*, 537 U.S. 322, 335-36 (2003). If a court denies a
petitioner's petition, the court may only 4 | issue a certificate of appealability when a petitioner
makes a substantial showing of the denial of 5 | a constitutional right. 28 U.S.C. § 2253(c)(2).
Where, as here, the court denies habeas relief on 6 | procedural grounds without reaching the
underlying constitutional claims, the court should issue a 7 | certificate of appealability if “jurists
of reason would find it debatable whether the petition states 8 | valid claim of the denial of a
constitutional right and that jurists of reason would find it 9 | debatable whether the district court
was correct in its procedural ruling.” *Slack v. McDaniel*, 529 10 | U.S. 473, 484 (2000).

11 In the present case, the court finds that reasonable jurists would not find the court's 12 |
determination that the pending petition must be dismissed to be debatable or wrong. Thus, the 13 |

court declines to issue a certificate of appealability. 14 Accordingly, IT IS HEREBY ORDERED that: 15 1.

The findings and recommendations filed on November 12, 2025 (Doc. No. 13) are 16 ADOPTED in full; 17 2. Respondent Martin Gamboa's motion to dismiss (Doc. No. 12) is GRANTED; 18 3. The petition for writ of habeas corpus (Doc. No. 1) is DISMISSED; 19 4.

The court declines to issue a certificate of appealability; and 20 5. The Clerk of the Court is directed to close this case. 21 IT IS SO ORDERED. □ 23 | Dated: _December 30, 2025 _ DUC Dena Coggins 24 United States District Judge 25 26 27 28