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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION


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|--------------------|---|----------------------------------|
| JASON SCHMAUS, |) | No. CV 10-00644-DDP (VBK) |
| |) | |
| Petitioner, |) | ORDER ACCEPTING FINDINGS AND |
| |) | RECOMMENDATIONS OF UNITED STATES |
| v. |) | MAGISTRATE JUDGE |
| |) | |
| FRANCISCO JACQUEZ, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

Pursuant to 28 U.S.C. §636, the Court has reviewed the Petition for Writ of Habeas Corpus ("Petition"), the records and files herein, and the Report and Recommendation of the United States Magistrate Judge ("Report"). Further, the Court has engaged in de novo review of those portions of the Report to which Petitioner has objected.

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1 **IT IS ORDERED** that: (1) the Court accepts the findings and
2 recommendations of the Magistrate Judge, and (2) the Court declines to
3 issue a Certificate of Appealability ("COA").¹

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5 DATED: May 2, 2013



6 DEAN D. PREGERSON
7 UNITED STATES DISTRICT JUDGE
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21 ¹ Under 28 U.S.C. §2253(c)(2), a COA may issue "only if the
22 applicant has made a substantial showing of the denial of a
23 constitutional right." The Supreme Court has held that, to obtain a
24 Certificate of Appealability under §2253(c), a habeas petitioner must
25 show that "reasonable jurists could debate whether (or, for that
26 matter, agree that) the petition should have been resolved in a
27 different manner or that the issues presented were 'adequate to
28 deserve encouragement to proceed further.'" Slack v. McDaniel, 529
U.S. 473, 483-84, 120 S.Ct. 1595 (2000)(internal quotation marks
omitted); see also Miller-El v. Cockrell, 537 U.S. 322, 336, 123 S.Ct.
1029 (2003). After review of Petitioner's contentions herein, this
Court concludes that Petitioner has not made a substantial showing of
the denial of a constitutional right, as is required to support the
issuance of a COA.