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

PAO LO,

Petitioner,

2: 05 - cv - 1754 - MCE TJB

vs.

A.P. KANE,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On December 9, 2011, an order and judgment were issued which adopted the findings and recommendations of the Magistrate Judge which recommended denying Claims I-VI, but rejected the findings and recommendations as to Claims VII and VIII. Thus, the entire habeas petition was denied.

Petitioner filed a notice of appeal on January 6, 2012 and subsequently filed a request for a certificate of appealability on January 12, 2012. If Petitioner wishes to appeal the court’s decision, a certificate of appealability must issue before he can do so. See 28 U.S.C. § 2253(c)(1). A certificate of appealability may issue where “the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2).


1 The certificate of appealability must “indicate which specific issue or issues satisfy” the
2 requirement. 28 U.S.C. § 2253(c)(3).

3 A certificate of appealability should be granted for any issue that petitioner can
4 demonstrate is “debatable among jurists of reason,” “could be resolved differently by a different
5 court, or is “adequate to deserve encouragement to proceed further.” Jennings v. Woodford,
6 290 F.3d 1006, 1010 (9th Cir. 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).

7 Petitioner has demonstrated that a certificate of appealability should be granted on Claims
8 VII and VIII as numbered by the Magistrate Judge in the June 17, 2011 findings and
9 recommendations.

10 Accordingly, IT IS HEREBY ORDERED that a certificate of appealability is GRANTED
11 on Claims VII and VIII as numbered by the Magistrate Judge in the June 17, 2011 findings and
12 recommendations. A certificate of appealability is DENIED as to Petitioner’s other Claims.

13 Dated: December 4, 2012

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16 MORRISON C. ENGLAND, JR.
17 UNITED STATES DISTRICT JUDGE
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