

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

WO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

| | | |
|------------------------------|---|----------------------------------|
| Mack Calvin Martin, |) | |
| |) | |
| Petitioner, |) | No. CV-06-1513-PHX-PGR |
| vs. |) | |
| |) | |
| Deputy Warden Rider, et al., |) | <u>ORDER DENYING CERTIFICATE</u> |
| |) | <u>OF APPEALABILITY</u> |
| Respondents. |) | |
| |) | |

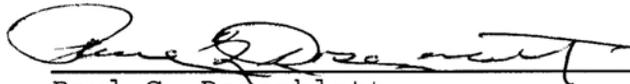
Having reviewed the petitioner’s Request for Order Re: Certificate of Appealability (doc. #39), the Court finds that no certificate of appealability should be issued.

The Court denied the petitioner’s habeas petition, filed pursuant to 28 U.S.C. § 2254, on the grounds that the petitioner had failed to properly exhaust his state court remedies as to any of the claims raised in his petition and had failed to establish any cause or prejudice for his failure to exhaust. Since the Court denied the petition on procedural grounds without reaching the merits of the petitioner’s constitutional claims, a COA should issue only if the petitioner shows (1) that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right, and (2) that jurists of reason

1 would find it debatable whether the Court was correct in its procedural ruling.
2 Slack v. McDaniel, 529 U.S. 473, 484, 120 S.Ct. 1595, 1604 (2000); 28 U.S.C.
3 § 2253(c)(1)(B) and (c)(2). The Court is unpersuaded that the petitioner has met
4 his burden as to either of these factors. Therefore,

5 IT IS ORDERED that the petitioner's Request for Order Re: Certificate of
6 Appealability (doc. #39) is denied.

7 DATED this 24th day of March, 2009.

8
9 
10 Paul G. Rosenblatt
11 United States District Judge
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26