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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

James William Gates, )  
)  
Petitioner, )  
vs. )  
Dora B. Schiro, )  
)  
Respondent. )  
\_\_\_\_\_ )

No. CV-06-2251-PHX-PGR

ORDER DENYING CERTIFICATE  
OF APPEALABILITY

Having reviewed the petitioner’s Application for Certificate of Appealability (doc. #19), 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 ground that the petition was untimely because it was filed after the expiration of the one-year limitations period set forth in 28 U.S.C. § 2244(d)(1)(A). 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 would find it debatable whether the Court was correct in its procedural ruling. Slack v. McDaniel, 529 U.S. 473, 484, 120 S.Ct. 1595, 1604

1 (2000); 28 U.S.C. § 2253(c)(1)(B) and (c)(2). The Court concludes that the  
2 petitioner has failed to meet his burden as to either of these factors. Therefore,

3 IT IS ORDERED that the petitioner's Application for Certificate of  
4 Appealability (doc. #19) is denied.

5 DATED this 24<sup>th</sup> day of March, 2009.

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7   
8 Paul G. Rosenblatt  
United States District Judge