

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
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

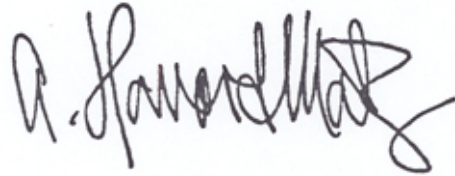
SHELLEY LAMONT SMALL,)	No. CV 02-00324-AHM (VBK)
)	
Petitioner,)	ORDER ACCEPTING FINDINGS AND
)	RECOMMENDATIONS OF UNITED STATES
v.)	MAGISTRATE JUDGE
)	
ERNEST ROE,)	
)	
Respondent.)	
_____)	

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 Third Report and Recommendation of the United States Magistrate Judge ("Report").

//
//
//
//
//
//
//
//
//

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

4
5 DATED: December 17, 2012



6
7
8 _____
A. HOWARD MATZ
SENIOR UNITED STATES DISTRICT JUDGE

9
10
11
12
13
14
15
16
17
18
19
20
21 _____
22 ¹ Under 28 U.S.C. §2253(c)(2), a COA may issue "only if the
23 applicant has made a substantial showing of the denial of a
24 constitutional right." The Supreme Court has held that, to obtain a
25 Certificate of Appealability under §2253(c), a habeas petitioner must
26 show that "reasonable jurists could debate whether (or, for that
27 matter, agree that) the petition should have been resolved in a
28 different manner or that the issues presented were 'adequate to
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.