

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

MELVIN RAYMOND PINK,)	No. CV 03-2832-GHK (CW)
)	
Petitioner,)	ORDER DENYING CERTIFICATE
)	OF APPEALABILITY
v.)	
)	
JOSE SOLIS, WARDEN)	
)	
Respondent.)	
_____)	

The pro se petitioner is a prisoner in custody in this district pursuant to a state court judgment. Petitioner filed a Petition for Writ of Habeas Corpus (28 U.S.C. § 2254) in this court. In the Report and Recommendation filed April 28, 2010 (docket no. 54), the magistrate judge recommended that the petition be denied on its merits. This court has adopted the recommendations of the magistrate judge, and ordered the petition denied and dismissed with prejudice.

"The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant." Rules Governing Section 2254 Cases in the United States District Courts, Rule 11(a); Rules Governing Section 2255 Proceedings in the

1 United States District Courts, Rule 11(a) (same). A certificate of
2 appealability ("COA") may not be issued unless there has been "a
3 substantial showing of the denial of a constitutional right." 28
4 U.S.C. § 2253(c) (2); United States v. Christakis, 238 F.3d 1164, 1168
5 n.4 (9th Cir. 2001). A "substantial showing" is a demonstration that:
6 (1) issues are debatable among jurists of reason; (2) a court could
7 resolve the issues differently; or (3) issues are adequate to deserve
8 encouragement to proceed further. Barefoot v. Estelle, 463 U.S. 880,
9 893 n.4, 103 S. Ct. 3383, 78 L. Ed. 2d 1090 (1983); Slack v. McDaniel,
10 529 U.S. 473, 483, 120 S. Ct. 1595, 146 L. Ed. 2d 542 (2000);
11 Lambright v. Stewart, 220 F.3d 1022, 1024 (9th Cir. 2000).

12 When (as in the present case) a district court has rejected
13 constitutional claims on their merits, the COA standard is
14 straightforward. "The petitioner must demonstrate that reasonable
15 jurists would find the district court's assessment of the
16 constitutional claims debatable or wrong." Slack, 529 U.S. at 484.

17 In the present case, Petitioner's claims were fully addressed in
18 the Report and Recommendation of United States Magistrate Judge
19 ("R&R") accepted by this court. The relevant principles of law, as
20 stated in the R&R, are well-settled, and their application to the
21 facts of this case is straightforward. Nothing in the record
22 indicates that the determination on these issues is reasonably
23 debatable or subject to differing resolution, nor are petitioner's
24 claims deserving of encouragement for further proceedings.
25 Accordingly, this court finds no basis for issuing a certificate of
26 appealability.

27 //

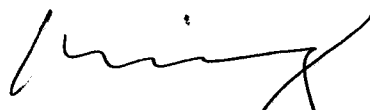
28 //

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

ORDER:

The issuance of a certificate of appealability is **DENIED**.

DATED: 5/23/10



GEORGE H. KING
United States District Judge

Presented by:

Dated: May 21, 2010



CARLA M. WOHRLE
United States Magistrate Judge