

1 person charged with a criminal offense against the United States, or to test the validity
2 of such person's detention pending removal proceedings.

(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal
3 may not be taken to the court of appeals from--

(A) the final order in a habeas corpus proceeding in which the detention complained
4 of arises out of process issued by a State court; or

(B) the final order in a proceeding under section 2255.

(2) A certificate of appealability may issue under paragraph (1) only if the applicant
5 has made a substantial showing of the denial of a constitutional right.

(3) The certificate of appealability under paragraph (1) shall indicate which specific
6 issue or issues satisfy the showing required by paragraph (2).

7 In the present case, the court finds that Petitioner has failed to carry his burden of
8 making a substantial showing of the denial of a constitutional right. Specifically, the court
9 notes that a motion to dismiss is pending in this case, and no final, appealable order has been
10 entered by the court. Accordingly, Petitioner's requests for a certificate of appealability are
11 HEREBY DENIED.

12 IT IS SO ORDERED.

13 **Dated: February 5, 2008**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE