

RAY ANTHONY JONES,)	1:07-CV-00656 LJO GSA HC
)	Appeal No. 08-16760
Petitioner,)	
)	ORDER DECLINING ISSUANCE OF
v.)	CERTIFICATE OF APPEALABILITY
)	
KATHY MENDOZA-POWERS,)	ORDER DIRECTING CLERK OF COURT
)	TO SERVE COPY OF ORDER ON NINTH
Respondent.)	CIRCUIT COURT OF APPEALS
)	

(b) There shall be no right of appeal from a final order in a proceeding to test the

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1 validity of a warrant to remove to another district or place for commitment or trial
2 a person charged with a criminal offense against the United States, or to test the
3 validity of such person's detention pending removal proceedings.

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

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

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

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

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

14 If a court denies a petitioner's petition, the court may only issue a certificate of appealability
15 "if jurists of reason could disagree with the district court's resolution of his constitutional claims or
16 that jurists could conclude the issues presented are adequate to deserve encouragement to proceed
17 further." Miller-El, 123 S.Ct. at 1034; Slack v. McDaniel, 529 U.S. 473, 484 (2000). While the
18 petitioner is not required to prove the merits of his case, he must demonstrate "something more than
19 the absence of frivolity or the existence of mere good faith on his . . . part." Miller-El, 123 S.Ct. at
20 1040.

21 In the present case, the Court finds that reasonable jurists would not find the Court's
22 determination that Petitioner is not entitled to federal habeas corpus relief debatable, wrong, or
23 deserving of encouragement to proceed further. Petitioner has not made the required substantial
24 showing of the denial of a constitutional right. Accordingly, the Court hereby DECLINES to issue a
25 certificate of appealability. The Clerk of Court is DIRECTED to serve a copy of this order on the
26 Ninth Circuit Court of Appeals.

27 IT IS SO ORDERED.

28 **Dated: June 1, 2010**

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