



1 (b) There shall be no right of appeal from a final order in a proceeding to test the  
2 validity of a warrant to remove to another district or place for commitment or trial  
3 a person charged with a criminal offense against the United States, or to test the  
4 validity of such person's detention pending removal proceedings.

(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.

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

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

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

19 In the present case, the Court finds that reasonable jurists would not find the Court's  
20 determination that Petitioner is not entitled to federal habeas corpus relief debatable, wrong, or  
21 deserving of encouragement to proceed further. Petitioner has not made the required substantial  
22 showing of the denial of a constitutional right. Accordingly, the Court hereby DENIES Petitioner's  
23 motion for certificate of appealability.

IT IS SO ORDERED.

24 **Dated: September 17, 2009**

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