

FILED

JUL 20 2009

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10 FRESNO DIVISION

11 ROJELIO BRIONES,
12 Petitioner,

13 v

14 WARDEN D K SISTO, Warden
15 Respondent

Case No 1-08-cv-0730 VRW

ORDER DENYING APPLICATION
FOR CERTIFICATE OF
APPEALABILITY

16
17 The court denied the petition for a writ of habeas
18 corpus in the above-captioned matter and issued judgment in favor
19 of respondent. Petitioner has filed a "notice of appeal," which
20 the court construes as an application for a certificate of
21 appealability.

22 "[A]n appeal may not be taken to the court of appeals
23 from" the denial of a habeas petition unless a certificate of
24 appealability is issued. 28 USC § 2253(c) (1) (2009). A
25 certificate of appealability may be issued "only if the applicant
26 has made a substantial showing of the denial of a constitutional
27 right," id § 2253(c) (2); the certificate "shall indicate which
28 specific issue or issues satisfy [this] showing," id §
2254(c) (3).

1 For the reasons stated in the court's prior order
2 denying the petition, Petitioner has not made any showing of the
3 denial of a constitutional right, much less the substantial
4 showing required for the issuance of a certificate of
5 appealability. Accordingly, and good cause appearing therefor,
6 Petitioner's application for a certificate of appealability is
7 denied.

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9 IT IS SO ORDERED.

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 Vaughn R Walker
United States District Chief Judge