

FILED

UNITED STATES COURT OF APPEALS

AUG 13 2009

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LUIS C. RODRIGUEZ,

Defendant - Appellant.

No. 09-16634

D.C. No. 1:08-cv-00802-LJO
Eastern District of California,
Fresno

ORDER

Before: Peter L. Shaw, Appellate Commissioner.

The district court has not issued or declined to issue a certificate of appealability in this appeal, which arises under 28 U.S.C. § 2255. Accordingly, pursuant to circuit court policy, this case is remanded to the district court for the limited purpose of granting or denying a certificate of appealability at the court's earliest convenience. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b); *United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997).

If the district court issues a certificate of appealability, the court should specify which issue or issues meet the required showing. *See* 28 U.S.C. § 2253(c)(3); *Asrar*, 116 F.3d at 1270. If the district court declines to issue a certificate, the court should state its reasons why a certificate of appealability

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should not be granted, and the clerk of the district court shall forward to this court the record with the order denying the certificate. *See Asrar*, 116 F.3d 1270.

The Clerk shall serve this order on the district judge.