

**FILED**

JUN 14 2010

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

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION

STEVEN DALE BELL,

No 1-08-cv-01090 VRW

Petitioner,

ORDER DENYING CERTIFICATE OF  
APPEALABILITY

v

JAMES D HARTLEY,

Respondent.

Petitioner Steven Dale Bell, a state prisoner proceeding pro se, has filed a notice of appeal from the order denying his petition for writ of habeas corpus that challenged a parole denial decision. Doc #22. Under the recent decision of Hayward v Marshall, 603 F3d 546, 554 (9th Cir 2010) (en banc), petitioner must obtain a certificate of appealability to appeal such a decision. The Ninth Circuit has remanded this case for the limited purpose of granting or denying a certificate of appealability. Doc #28. Petitioner has also filed an application for a certificate of appealability. Doc #29.

For the reasons set forth in the court's order denying the petition, petitioner has not made "a substantial showing of the denial of a constitutional right." 28 USC § 2253(c)(2). This is

1 not a case in which "reasonable jurists would find the district  
2 court's assessment of the constitutional claims debatable or  
3 wrong." Slack v McDaniel, 529 US 473, 484 (2000). Accordingly,  
4 and good cause appearing therefor, the court denies petitioner's  
5 application for issuance of a certificate of appealability.

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7 IT IS SO ORDERED.

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11 VAUGHN R WALKER  
12 United States District Chief Judge  
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