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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PHILIP EARL CARTER,
Petitioner,
v.
STU SHERMAN,
Respondent.

Case No. 1:14-cv-00352-AWI-SAB-HC
ORDER DENYING PETITIONER'S
MOTION FOR A CERTIFICATE OF
APPEALABILITY (ECF No. 18)

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On December 8, 2014, the Magistrate Judge issued a Findings and Recommendation that recommended that the petition be denied. (ECF No. 12). On March 20, 2015, the Court adopted the Findings and Recommendation and denied Petitioner's petition for writ of habeas corpus. (ECF No. 16). On that same date, judgment was entered in accordance with the order denying the petition. (ECF No. 17). In the order denying the petition, the Court also declined to issue a certificate of appealability. (ECF No. 16).

On April 22, 2015, Petitioner filed a motion for certificate of appealability and a notice of appeal. (ECF No. 18). Upon a review of the instant motion, is unclear whether Petitioner is seeking a certificate of appealability from the district court or from the Ninth Circuit Court of Appeals, so the Court will address Petitioner's motion as if he is seeking it from the district

1 court.

2 In the order denying the petition and declining to issue a certificate of appealability, the
3 Court found that “reasonable jurists would not find the Court’s determination that Petitioner is
4 not entitled to federal habeas corpus relief debatable, wrong, or deserving of encouragement to
5 proceed further” and that Petitioner had “not made the required substantial showing of the denial
6 of a constitutional right” to justify the issuance of a certificate of appealability. (ECF No. 16 at
7 3). Upon review of Petitioner’s motion for a certificate of appealability, the Court again finds
8 that reasonable jurists would not find the Court’s determination that Petitioner is not entitled to
9 federal habeas corpus relief debatable, wrong, or deserving of encouragement to proceed further.
10 Petitioner has not made the required substantial showing of the denial of a constitutional right.
11 Therefore, Petitioner’s motion for a certificate of appealability must be denied.

12 Accordingly, IT IS HEREBY ORDERED that the Court DENIES Petitioner’s motion for
13 a certificate of appealability.

14 IT IS SO ORDERED.

15 Dated: June 1, 2015

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18 SENIOR DISTRICT JUDGE

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