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

PHOUSAYKEO SAYSOURIVONG,

Petitioner,

No. CIV S-03-1747 RRB DAD P

vs.

D. L. RUNNELS, et al.,

Respondent.

ORDER

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's April 9, 2010 denial of his motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b). Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues satisfy the required showing or must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).

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1                   For the reasons set forth in the April 9, 2010 order denying relief, petitioner has  
2 not made a substantial showing of the denial of a constitutional right. Accordingly, a certificate  
3 of appealability should not issue in this action.

4                   IT IS SO ORDERED.

5 DATED: 5/21/2010

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7                   S/RALPH R. BEISTLINE

8                   UNITED STATES DISTRICT JUDGE

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