(HC) Simpso	on v. Evans	
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8	IN THE UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
10	SHABONDY LAMAR SIMPSON,	
11	Petitioner, No. CIV S-05-0640 JAM DAD P	
12	VS.	
13	M. EVANS, Warden,	
14	Respondent. <u>ORDER</u>	
15	/	
16	Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of	
17	this court's July 22, 2009 denial of his application for a writ of habeas corpus. Before petitioner	
18	can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R.	
19	App. P. 22(b).	
20	A certificate of appealability may issue under 28 U.S.C. § 2253 "only if the	
21	applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C.	
22	§ 2253(c)(2). The certificate of appealability must "indicate which specific issue or issues	
23	satisfy" the requirement. 28 U.S.C. § 2253(c)(3).	
24	A certificate of appealability should be granted for any issue that petitioner can	
25	demonstrate is "debatable among jurists of reason," could be resolved differently by a different	
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1 court, or is "adequate to deserve encouragement to proceed further." Jennings v. Woodford, 2 290 F.3d 1006, 1010 (9th Cir. 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).¹ 3 Petitioner has made a substantial showing of the denial of a constitutional right in 4 the following issues presented in the instant petition: (1) whether his right to due process was 5 violated by the introduction of perjured testimony at his trial; (2) whether his Sixth and Fourteenth Amendment rights were violated by the trial court's denial of his motion for new trial; (3) whether he received ineffective assistance of trial and appellate counsel; (4) whether the prosecutor committed misconduct by allowing one of the prosecution witnesses to give perjured 8 9 testimony; (5) whether the prosecutor failed to disclose exculpatory evidence to the defense; and (6) whether the trial court violated his right to due process when it responded improperly to a 10 11 question from the jury. 12 Accordingly, IT IS HEREBY ORDERED that a certificate of appealability is issued in the present action. 13 DATED: August 31, 2009 14 15 16 /s/ John A. Mendez 17 U. S. District Court Judge 18 /simpson640.coa 19 20 21 22 23 24 25 ¹ Except for the requirement that appealable issues be specifically identified, the standard for issuance of a certificate of appealability is the same as the standard that applied to issuance of

a certificate of probable cause. Jennings, at 1010.

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