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

10 ROLON LAMARR MORRIS, II,

11 Petitioner,

No. 2:06-cv-0354 GEB JFM (HC)

12 vs.

13 THOMAS CAREY, et al.,

14 Respondents.

ORDER

15 _____/
16 Petitioner, a state prisoner proceeding through counsel, has timely filed a notice of
17 appeal of this court's March 5, 2010 denial of his application for a writ of habeas corpus together
18 with a motion for a certificate of appealability pursuant to 28 U.S.C. § 2253(c) and Fed. R. App.
19 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

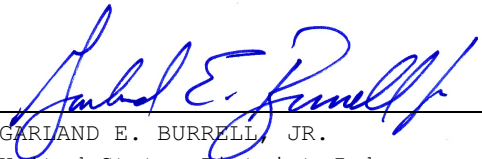
3 Petitioner has made a substantial showing of the denial of a constitutional right in
4 the following issue(s) presented in the instant petition: (1) whether the prosecutor exercised a
5 peremptory challenge to strike an African American juror on the basis of race, in violation of
6 Batson v. Kentucky, 476 U.S. 79 (1986); and (2) whether petitioner’s right to due process was
7 violated by admission at trial of unreliable identification evidence.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. Petitioner’s March 16, 2010 motion for a certificate of appealability is granted;
10 and

11 2. The Clerk of the Court is directed to process petitioner’s appeal to the United
12 States Court of Appeals for the Ninth Circuit.

13 Dated: April 11, 2010

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16 GARLAND E. BURRELL, JR.
United States District Judge

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25 ¹ Except for the requirement that appealable issues be specifically identified, the standard
26 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.