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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JOSE JUAN RAMIREZ,  
Petitioner,  
v.  
DAVE RUNNELS, Warden,  
Respondent.

Case No. CIV S-06-1312 GW

**ORDER DENYING CERTIFICATE  
OF APPEALABILITY**

Jose Juan Ramirez’s Petition for Writ of Habeas Corpus (“Habeas Petition”), originally filed in the Eastern District of California on June 13, 2006, was denied on November 8, 2010. Petitioner has now taken steps to appeal that decision.

Under the Antiterrorism and effective Death Penalty Act of 1996, a state prisoner seeking to appeal a district court’s denial of a habeas petition must first obtain a Certificate of Appealability (“COA”) from the district judge or a circuit judge. 28 U.S.C. § 2253(c)(1)(A). A COA, however, may issue only if the applicant has made “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); accord *Williams v. Calderon*, 83 F.3d 281, 286 (9th Cir.), cert. denied, 517 U.S. 1183 (1996). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s

1 resolution of his constitutional claims or that jurists could conclude the issues  
2 presented are adequate to deserve encouragement to proceed further.” *Miller-El v.*  
3 *Cockrell*, 537 U.S. 322, 327 (2003); *see also Slack v. McDaniel*, 529 U.S. 473, 484  
4 (2000). When a district court dismisses a petition on procedural grounds, the  
5 reviewing court should apply a two-step analysis, and a COA should issue if the  
6 petitioner can show both: (1) “that jurists of reason would find it debatable whether  
7 the district court was correct in its procedural ruling[;]” and (2) “that jurists of  
8 reason would find it debatable whether the petition states a valid claim of the denial  
9 of a constitutional right[.]” *Slack*, 529 U.S. at 478.

10 Here, the Habeas Petition raised only claims of ineffective assistance of  
11 counsel (“IAC”), some of which Petitioner had exhausted under available state court  
12 remedies and some of which he had not. Because the state disposition of his  
13 exhausted IAC claim was neither contrary to clearly established Federal law nor an  
14 unreasonable application of that law and because his unexhausted IAC claims failed  
15 to set forth a colorable claim for habeas relief, there is no basis for issuing a COA  
16 here. There is no substantial showing: 1) of the denial of a constitutional right (or at  
17 least a sufficient showing so as to encourage the Petitioner to proceed further), or 2)  
18 “that jurists of reason would find it debatable whether the district court was correct  
19 in its procedural ruling.” *Slack*, 529 U.S. at 478.

20 Based on the foregoing, IT IS ORDERED that a Certificate of Appealability  
21 is **DENIED**.

22  
23 DATED: This 16<sup>th</sup> day of January, 2011.

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26   
27 HON. GEORGE H. WU  
28 UNITED STATES DISTRICT JUDGE