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

TY ERIK LOPES,

No. 2:06-cv-01657-MCE-CHS P

Petitioner,

vs.

ORDER

ROSANNE CAMPBELL, et al.,

Respondents.

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Petitioner, a state prisoner proceeding pro se, has filed a timely notice of appeal of this court’s April 6, 2009 order denying his application for writ of habeas corpus. 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 “if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The certificate of appealability must “indicate which specific issue or issues satisfy” the requirement. 28 U.S.C. § 2253(c)(3).

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1 A certificate of appealability should be granted for any issue that petitioner can  
2 demonstrate is “debatable among jurists of reason,” could be resolved differently by a different  
3 court, or is “adequate to deserve encouragement to proceed further.” *Jennings v. Woodford*,  
4 290 F.3d 1006, 1010 (9th Cir. 2002) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).<sup>1</sup>

5 Petitioner has made a substantial showing in his petition that insufficient evidence  
6 supported the conviction; that the prosecutor committed *Brady* violations and engaged in  
7 prosecutorial misconduct; that he received ineffective assistance of counsel at trial and on direct  
8 appeal; and finally, that erroneous evidentiary rulings and an instructional error deprived him of  
9 due process, either individually or in combination.

10 Accordingly, IT IS HEREBY ORDERED that a certificate of appealability shall issue in  
11 the present action.

12 Dated: April 14, 2009

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15 MORRISON C. ENGLAND, JR.  
16 UNITED STATES DISTRICT JUDGE  
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25 <sup>1</sup> 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.