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8 IN THE UNITED STATES DISTRICT COURT FOR THE
9 EASTERN DISTRICT OF CALIFORNIA
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11 EARL PRICE,

2:06-cv-01865-ATG (HC)

12 Petitioner,

ORDER DENYING CERTIFICATE OF
APPEALABILITY

13 vs.

(DOCUMENT # 34)

14 D.K. SISTO,

15 Respondent.
16 _____/

17 Petitioner is a state prisoner proceeding pro se in a habeas corpus action pursuant to 28
18 U.S.C. § 2254. On January 7, 2009, this court dismissed his petition for habeas corpus. On
19 January 26, 2009, petitioner filed a timely notice of appeal and requested a certificate of
20 appealability from this court. Pursuant to 28 U.S.C. § 2253(c)(2), "[a] certificate of
21 appealability may issue . . . only if the applicant has made a substantial showing of the denial of a
22 constitutional right." Petitioner's notice of appeal did not attempt to make the required
23 "substantial showing."

24 On February 2, 2009, this court entered an order to show cause why he is entitled to a
25 certificate of appealability. Petitioner was given 14 days from the date of the order in which to
26 respond. The allotted time has passed and Petitioner has failed to respond. Therefore, he has
27 failed to make the showing required to establish that he is entitled to a certificate of
28 appealability.

1 For these reasons, the Court declines to issue a certificate of appealability. Any further
2 request for a certificate of appealability must be addressed to the Court of Appeals. *See* Fed. R.
3 App. P. 22(b); Ninth Circuit R. 22-1.

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5 Dated: April 10, 2009

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7 /s/ Alfred T. Goodwin

8 ALFRED T. GOODWIN.
9 United States Circuit Judge
10 Sitting by designation
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