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5 IN THE UNITED STATES DISTRICT COURT FOR THE
6 EASTERN DISTRICT OF CALIFORNIA
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9 KEVIN ALEXANDER BOYCE,

2:06-cv-01944-RCT

10
11 Petitioner,

ORDER

12
13 v.

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15 BRUNO STOLC, Warden,*

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17 Respondent.
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20 This court dismissed the Petitioner Kevin Boyce's petition for writ of habeas corpus on
21 June 2, 2009. On June 14, 2010, Boyce petitioned for a certificate of appealability. A
22 certificate of appealability is required before an appeal can be taken. 28 U.S.C. § 2253(c); Fed.
23 R. App. P. 22(b).

24 A certificate of appealability may issue "only if the applicant has made a substantial
25 showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). A petitioner must
26 show that the issue to be appealed is "debatable among jurists of reason," that different courts
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* Bruno Stolc is substituted for Larry Small as the warden where the petitioner is now incarcerated, pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

1 could resolve the issue differently, or that the question “deserve[s] encouragement to proceed
2 further.” *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983) (superseded on other grounds by 28
3 U.S.C. § 2253(c)) (citations omitted).

4 For the reasons set forth in this court’s June 2, 2009, order dismissing the petition,
5 Boyce has failed to make a substantial showing of the denial of a constitutional right to a full and
6 fair hearing on his Fourth Amendment motion to suppress. Moreover, Boyce has not filed a
7 notice of appeal, and the time limit for him to do so expired nearly a year ago. For all of these
8 reasons, Boyce’s petition for a certificate of appealability is denied.

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10 DATED this 29th day of June, 2009, at Seattle, Washington.

11 /s/ Richard C. Tallman
12 UNITED STATES CIRCUIT JUDGE
13 Sitting by Designation
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