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

WAYNE SIMPSON,

Petitioner,

No. CIV S-06-2763 WBS KJM P

vs.

KUMA J. DEBOO,

Respondent.

ORDER

_____/

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's February 3, 2010 denial of his application for a 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 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues satisfy the required showing or must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).

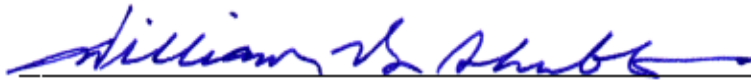
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1 For the reasons set forth in the magistrate judge's December 8, 2009 findings and
2 recommendations and this court's February 3, 2010 order, petitioner has not made a substantial
3 showing of the denial of a constitutional right. Accordingly, a certificate of appealability should
4 not issue in this action.

5 IT IS SO ORDERED.

6 DATED: February 19, 2010

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8 WILLIAM B. SHUBB
9 UNITED STATES DISTRICT JUDGE
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