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

BENJAMIN ADKINS,  
Petitioner,

No. CIV S-07-1783-LKK-CMK-P

vs.

ORDER

D.K. SISTO, et al.,  
Respondents.

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Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the denial of parole in March 2006. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On August 13, 2010, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within a specified time. No objections to the findings and recommendations have been filed.

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1           The court has reviewed the file and finds the findings and recommendations to be  
2 supported by the record and by the Magistrate Judge's analysis.

3           Pursuant to Rule 11(a) of the Federal Rules Governing Section 2254 Cases, the  
4 court has considered whether to issue a certificate of appealability. Before petitioner can appeal  
5 this decision, a certificate of appealability must issue. See 28 U.S.C. § 2253(c); Fed. R. App. P.  
6 22(b). Where the petition is denied on the merits, a certificate of appealability may issue under  
7 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a  
8 constitutional right.” 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of  
9 appealability indicating which issues satisfy the required showing or must state the reasons why  
10 such a certificate should not issue. See Fed. R. App. P. 22(b); but see Woods v. Carey, 525 F.3d  
11 886 (9th Cir. 2008) (citing White v. Lambert, 370 F.3d 1002, 1010 (9th Cir. 2004), and  
12 suggesting that a certificate of appealability is not required in cases where petitioner challenges  
13 the denial of parole). Where the petition is dismissed on procedural grounds, a certificate of  
14 appealability “should issue if the prisoner can show: (1) ‘that jurists of reason would find it  
15 debatable whether the district court was correct in its procedural ruling’; and (2) ‘that jurists of  
16 reason would find it debatable whether the petition states a valid claim of the denial of a  
17 constitutional right.’” Morris v. Woodford, 229 F.3d 775, 780 (9th Cir. 2000) (quoting Slack v.  
18 McDaniel, 529 U.S. 473, 120 S.Ct. 1595, 1604 (2000)). For the reasons set forth in the  
19 Magistrate Judge’s August 13, 2010, findings and recommendations, the court finds that issuance  
20 of a certificate of appealability is not warranted in this case.

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Accordingly, IT IS HEREBY ORDERED that:

- 1. The findings and recommendations filed August 13, 2010, are adopted in full;
- 2. Petitioner's petition for a writ of habeas corpus (Doc. 1) is denied;
- 3. All pending motions/requests are denied as moot;
- 4. The court declines to issue a certificate of appealability; and
- 5. The Clerk of the Court is directed to enter judgment and close this file.

DATED: September 16, 2010.

  
LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT