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

DORN ALLEN FREEMAN,

Petitioner,

No. CIV S-07-1898 LKK CHS P

vs.

M. S. Evans,

Respondent. ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, filed a timely notice of appeal of this court’s September 29, 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).


A certificate of appealability should be granted for any issue that petitioner can demonstrate is “debatable among jurists of reason,” could be resolved differently by a different court, or is “adequate to deserve encouragement to proceed further.” *Jennings v. Woodford*,

1 290 F.3d 1006, 1010 (9th Cir. 2002) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).¹

2 In this case, petitioner failed to make a substantial showing with respect to either
3 of the claims presented.

4 Accordingly, IT IS HEREBY ORDERED that a certificate of appealability shall
5 not issue in the present action.

6 DATED: January 8, 2010.

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9 LAWRENCE K. KARLTON
10 SENIOR JUDGE
11 UNITED STATES DISTRICT COURT
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25 ¹ 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.