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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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TERRY L. SLAUGHTER,
Petitioner,

v.
D. K. SISTO,
Respondent.

NO. CIV. S-07-2628 WBS DAD P
ORDER ISSUING A CERTIFICATE OF
APPEALABILITY

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Petitioner Terry L. Slaughter seeks to appeal from this court's order of January 8, 2009, dismissing this habeas corpus petition. Before defendant can appeal from this order, 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 certificate of appealability must "indicate which specific issue or issues satisfy" the requirement. 28 U.S.C. § 2253(c)(3).

1 A certificate of appealability should be granted for
2 any issue that petitioner can demonstrate is "'debatable among
3 jurists of reason,'" could be resolved differently by a different
4 court, or is "'adequate to deserve encouragement to proceed
5 further.'" Jennings v. Woodford, 290 F.3d 1006, 1010 (9th Cir.
6 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).

7 Judged by this standard, petitioner has made a
8 sufficient showing to justify issuance of a certificate of
9 appealability on the issue of whether he has a state-created
10 liberty interest in how his sentence was calculated. Sandin v.
11 Connor, 515 U.S. 472 (1995).

12 IT IS THEREFORE ORDERED that a certificate of
13 appealability is hereby issued.

14 DATED: January 22, 2009

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17 WILLIAM B. SHUBB
18 UNITED STATES DISTRICT JUDGE
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