

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

5 Petitioner has made a substantial showing of the denial of a constitutional right in
6 the following issue presented in the instant petition: whether the trial court in the retrial
7 erroneously denied a Batson challenge. Accordingly, IT IS HEREBY ORDERED that a
8 certificate of appealability is issued in the present action on the Batson challenge issue only.

9 IT IS SO ORDERED.

10 Dated: March 31, 2011

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13 MORRISON C. ENGLAND, JR.
14 UNITED STATES DISTRICT JUDGE

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26 ¹ Except for the requirement that appealable issues be specifically identified, the standard
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.