

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

VICTOR SAMUEL DAVIS,

Petitioner,

No. CIV S-08-1007 FCD CHS P

VS.

L.E. SCRIBNER, Warden, et al.,

Respondents.

ORDER

Petitioner, a state prisoner proceeding pro se, has filed a timely notice of appeal of this court's March 19, 2010 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).

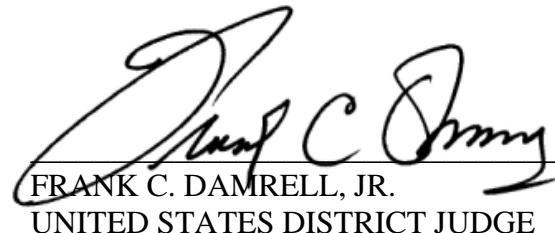
A certificate of appealability should be granted for any issue that petitioner can demonstrate is ““debatable among jurists of reason,”” could be resolved differently by a different court, or is ““adequate to deserve encouragement to proceed further.”” *Jennings v. Woodford*,

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

2 Petitioner has not met this standard. For the reasons set forth in the magistrate
3 judge's Findings and Recommendations filed on February 12, 2010, petitioner has not made a
4 substantial showing of the denial of a constitutional right in any of his claims.

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

7 DATED: April 27, 2010.



FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE

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