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

10 VICTOR SAMUEL DAVIS,

11 Petitioner,

No. CIV S-08-1007 FCD CHS P

12 vs.

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

14 Respondents.

ORDER

15 _____/
16 Petitioner, a state prisoner proceeding pro se, has filed a timely notice of appeal of
17 this court's March 19, 2010 order denying his application for writ of habeas corpus. Before
18 petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c);
19 Fed. R. App. P. 22(b).

20 A certificate of appealability may issue under 28 U.S.C. § 2253 "if the applicant
21 has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).
22 The certificate of appealability must "indicate which specific issue or issues satisfy" the
23 requirement. 28 U.S.C. § 2253(c)(3).


24 A certificate of appealability should be granted for any issue that petitioner can
25 demonstrate is "debatable among jurists of reason," could be resolved differently by a different
26 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.

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9 FRANK C. DAMRELL, JR.
10 UNITED STATES DISTRICT JUDGE
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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.