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

MACK NELSON SHORTY,

Petitioner,

No. CIV S-08-CV-1418 FCD CHS P

vs.

D.K. SISTO,

Respondent.

ORDER

_____/

Petitioner, Mack Nelson Shorty, is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner is currently serving an indeterminate sentence of twenty years to life following his 1985 jury conviction for attempted murder causing great bodily injury and a penalty enhancement for being a habitual offender. With his petition, Petitioner does not challenge the constitutionality of that conviction, but rather, the execution of his sentence and, specifically, the December 19, 2006 decision by the Board of Parole Hearings finding him unsuitable for parole.

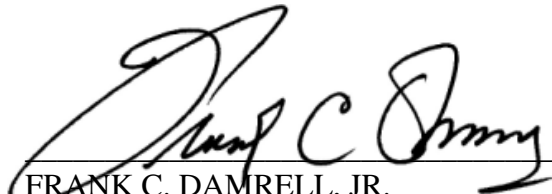
On April 19, 2011, judgment in this case became final after the United States District Court Judge adopted in full the findings and recommendations filed by the United States Magistrate Judge. Petitioner now wishes to appeal the judgment of the court, and requests a certificate of

1 appealability. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A certificate of appealability may
2 issue under 28 U.S.C. § 2253 “if the applicant has made a substantial showing of the denial of a
3 constitutional right.” 28 U.S.C. § 2253(c)(2). The certificate of appealability must “indicate which
4 specific issue or issues satisfy” the requirement. 28 U.S.C. 2253(c)(3). A certificate of appealability
5 should be granted for any issue that Petitioner can demonstrate is “debatable among jurists of
6 reason,” could be resolved differently by a different court, or is “adequate to deserve
7 encouragement to proceed further.” *Jennings v. Woodford*, 299 F.3d 1006, 1010 (9th Cir. 2002)
8 (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).¹ In this case, Petitioner has failed to make
9 a substantial showing with respect to any of the claims presented.

10 Accordingly, IT IS HEREBY ORDERED that:

11 1. Petitioner’s request for a certificate of appealability is DENIED.

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13 DATED: June 30, 2011.

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15 FRANK C. DAMRELL, JR.
16 UNITED STATES DISTRICT JUDGE
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25 ¹ Except for the requirement that appealable issues be specifically identified, the standard
26 for a certificate of appealability is the same as the standard applied to issuance of a certificate of
probable cause. *Jennings*, 290 F.3d at 1010.