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

ALONZO McKINNEY

Petitioner,

No. CIV S-09-1650 GGH (TEMP) P

vs.

J. WALKER

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's dismissal of his application for a 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).¹

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 court must either issue a certificate of appealability indicating which issues satisfy the required showing or must state the reasons why such a certificate should not issue.

¹ Because petitioner consented to the magistrate judge’s jurisdiction under 28 U.S.C. § 636(c), the undersigned has authority to determine whether a certificate of appealability should issue.

1 Fed. R. App. P. 22(b).

2 For the reasons set forth in the order entered June 10, 2010, petitioner has not
3 made a substantial showing of the denial of a constitutional right. Accordingly, the court
4 declines to issue a certificate of appealability issue in this action.

5 IT IS SO ORDERED.

6 DATED: February 7, 2011

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8 /s/ Gregory G. Hollows

9 GREGORY G. HOLLOWES
10 UNITED STATE MAGISTRATE JUDGE

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