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

JOHN ALAN PARVIN,

Petitioner,

No. 2:09-cv-2198-JFM (HC)

vs.

MATTHEW CATE, et al.,

Respondents.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court’s March 1, 2010 dismissal of his application for a writ of habeas corpus as barred by the statute of limitations. Petitioner has also filed a motion for a certificate of appealability. See 28 U.S.C. § 2253(c); Rule 11, 28 U.S.C. foll. § 2254; Fed. R. App. P. 22(b).

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

Where, as here, the petition was dismissed on procedural grounds, a certificate of appealability “should issue if the prisoner can show: (1) ‘that jurists of reason would find it

1 debatable whether the district court was correct in its procedural ruling’; and (2) ‘that jurists of
2 reason would find it debatable whether the petition states a valid claim of the denial of a
3 constitutional right.’” Morris v. Woodford, 229 F.3d 775, 780 (9th Cir. 2000) (quoting Slack v.
4 McDaniel, 529 U.S. 473, 484 (2000)).

5 After careful review of the entire record herein, this court finds that petitioner has
6 not satisfied the first requirement for issuance of a certificate of appealability in this case.

7 Specifically, there is no showing that jurists of reason would find it debatable whether this action
8 is time-barred. Accordingly, IT IS HEREBY ORDERED that:

9 1. Petitioner’s March 23, 2010 motion for a certificate of appealability is denied;
10 and

11 2. The Clerk of the Court is directed to process petitioner’s appeal to the United
12 States Court of Appeals for the Ninth Circuit.

13 DATED: March 29, 2010.

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16 UNITED STATES MAGISTRATE JUDGE

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