

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DAVID A. ELLIOTT,

Petitioner

CV 09-02199 TJH

v.

JAMES A. YATES,

Respondent

ORDER RE: CERTIFICATE  
OF APPEALABILITY

On January 3, 2013, Petitioner filed a Notice of Appeal and a request for a Certificate of Appealability pursuant to 28 U.S.C. § 2253, The Court has reviewed the matter.

IT IS HEREBY ORDERED.

The Certificate of Appealability is **Granted**. The specific issue(s) satisfy 28 U.S.C. § 2253(c)(2) as follows:

- (1) Whether Petitioner’s constitutional rights were violated when his request to admit the entire conversation between Petitioner and the police regarding entry into the motel room was denied by the trial court.
- (2) Whether Petitioner’s constitutional rights were violated by the trial court’s use of his 1988 prior plea bargain to enhance his sentence under California’s three strikes law.

- The Certificate of Appealability is **Denied** for the following reason(s):
  - There has been no substantial showing of the denial of a constitutional right.
  - The appeal seeks to test the validity of a warrant to remove to another district or place for commitment or trial.
  - The appeal seeks to test the validity of the detention pending removal proceedings.

February 2, 2015

  
United States District Judge