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

DOCK McNEELY,

Petitioner,

No. CIV S-09-2520 WBS GGH P

vs.

S. M. SALINAS, Warden,

Respondent.

ORDER DENYING CERTIFICATE OF

APPEALABILITY

Petitioner, a state prisoner proceeding pro se, has filed a notice of appeal of his own voluntary 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).

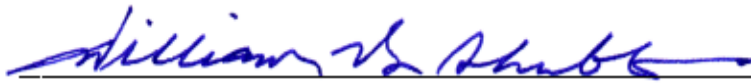
A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The court finds that petitioner has not made a substantial showing of the denial of a constitutional right. When the court declines to issue a certificate of appealability, it must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b). Here, plaintiff voluntarily dismissed his petition and has presented no valid reason why he should be allowed to revoke or withdraw his dismissal. Accordingly, a certificate of appealability should not issue in

1 this action.

2 IT IS SO ORDERED

3 DATED: August 13, 2010

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A handwritten signature in blue ink, reading "William B. Shubb", is written over a horizontal line.

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WILLIAM B. SHUBB

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UNITED STATES DISTRICT JUDGE

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