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

RICHARD JOSE DUPREE,

Petitioner,

No. CIV S-10-2900 WBS GGH P

vs.

CBS NETWORK, et al.,

Respondents.

ORDER

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Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's January 18, 2011 summary dismissal of his defective 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 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).

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1 For the reasons set forth in the magistrate judge's November 18, 2011 findings  
2 and recommendations, petitioner has not made a substantial showing of the denial of a  
3 constitutional right. Accordingly, a certificate of appealability should not issue in this action.

4 IT IS SO ORDERED.

5 DATED: February 8, 2011

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7 WILLIAM B. SHUBB  
8 UNITED STATES DISTRICT JUDGE

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