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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PABLO PINA,

No. C 04-2251 SI (pr)

Petitioner,

**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

v.

JOE McGRATH, warden,

Respondent.

United States District Court
For the Northern District of California


In 2004, Pablo Pina filed a petition for writ of habeas corpus to challenge a 1986 conviction for murder and burglary. This court dismissed the petition on August 9, 2005 as untimely filed. This court denied a certificate of appealability in 2005, as did the Ninth Circuit. See Docket # 20, # 24. More than five years later, Pina moved for reconsideration of the order dismissing his petition for writ of habeas corpus. This court denied the motion for reconsideration, and Pina has filed an appeal from that ruling. The court of appeal has requested this court to decide whether to issue a certificate of appealability for the current appeal.

A certificate of appealability will not issue. See 28 U.S.C. § 2253(c). This is not a case in which "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural [rulings]" in 2005 or in 2011. Slack v. McDaniel, 529

1 U.S. 473, 484 (2000). The denial of the certificate of appealability is without prejudice to Pina
2 seeking a certificate from the court of appeal.

3 IT IS SO ORDERED.

4 DATED: May 4, 2011



5 SUSAN ILLSTON
United States District Judge

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