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

GREGORY YOUNG,

Petitioner,

Vs.

D. L. RUNNELS, Warden,

Respondent.

No. C 05-0119 JSW (PR)

ORDER DENYING CERTIFICATE OF
APPEALABILITY

This is a pro se habeas petition that was denied on its merits on March 28, 2008. On December 29, 2008, Petitioner filed a motion for relief from "default judgment." On February 24, 2011, the motion was denied because there was no default judgment in this case. Petitioner then appealed the denial of his motion for relief from judgment, and the Court of Appeals remanded with instructions for this Court to determine whether a certificate of appealability should be granted. For the reasons described in the ruling on Petitioner's motion for relief from judgment, Petitioner has failed to make a substantial showing that his claims amounted to a denial of his constitutional rights and that a reasonable jurist would find this Court's denial of his motion debatable or wrong. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Petitioner's request for a certificate of appealability is therefore DENIED.

| 1 | The Clerk shall transmit the file, including a copy of this order, to the Ninth |
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| 2 | Circuit. See Fed. R. App. P. 22(b); United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir |
| 3 | 1997). Petitioner may then ask the Ninth Circuit to issue the certificate, see R.App.P. |
| 4 | 22(b)(1), or if he does not, the notice of appeal will be construed as such a request, see |
| 5 | R.App.P. 22(b)(2). |
| 6 | IT IS SO ORDERED. |
| 7 | DATED: <u>June 15, 2011</u> |
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| 9 | JEFFREY S. WHITE |
| 10 | United States District Judge |
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| 1 | UNITED STATES DISTRICT COURT |
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| 3 | NORTHERN DISTRICT OF CALIFORNIA |
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| 6 | YOUNG, Case Number: CV05-00119 JSW |
| 7 | Plaintiff, CERTIFICATE OF SERVICE |
| 8 | V. |
| 9 | RUNNELS et al, |
| 10 | Defendant/ |
| 11 | |
| 12 | I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California. |
| 13 | That on June 15, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said |
| 14 | copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office. |
| 15 | receptable foculed in the Clerk's office. |
| 16 | |
| 17 | Gregory Young T11420 |
| 18 | P.O. Box 715071 Represa, CA 95671 |
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| 20 | Dated: June 15, 2011 |
| 21 | Richard W. Wieking, Clerk By: Jennifer Ottolini, Deputy Clerk |
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