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

ROMMEL B. VALERA,

Petitioner,

vs.

A. P. KANE, Warden,

Respondent.

No. C 05-2568 JSW (PR)

**ORDER DENYING CERTIFICATE OF
APPEALABILITY AND
INSTRUCTIONS TO THE CLERK**

(Docket No. 22)

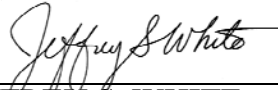
Petitioner filed a pro se petition for a writ of habeas corpus challenging the constitutionality of his state conviction under 28 U.S.C. § 2254. Following briefing, this Court denied Petitioner’s application for a writ of habeas corpus on the merits. Petitioner has filed a notice of appeal and a motion for a certificate of appealability (“COA”) (docket no. 22).

Upon the filing of a notice of appeal or a request for a COA, the district court shall indicate which specific issue or issues satisfy the standard for issuing a certificate, or state its reasons why a certificate should not be granted. *See United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997). (citing 28 U.S.C. § 2253(c)(3)). A judge shall grant a COA "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Petitioner has not shown that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Accordingly, a certificate of

1 appealability is DENIED. The Clerk of Court shall forward this order, along with the
2 case file, to the United States Court of Appeals for the Ninth Circuit. Petitioner may also
3 seek a certificate of appealability from that court. *See Asrar*, 116 F.3d at 1270.

4 IT IS SO ORDERED.

5 DATED: January 6, 2009

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8 JEFFREY S. WHITE
9 United States District Judge
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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 VALERA,

Case Number: CV05-02568 JSW

6 Plaintiff,

CERTIFICATE OF SERVICE

7 v.

8 CALIFORNIA SUPREME COURT et al,

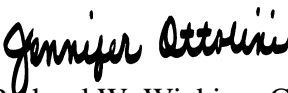
9 Defendant.
10 _____/

11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
12 Court, Northern District of California.

13 That on January 6, 2009, 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
15 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
16 receptacle located in the Clerk's office.

17 Rommel B. Valera
18 T93689
19 Tallahatchie County Correctional Training Facility
415 U.S. Highway 49 North
Tutwiler, MS 38963

20 Dated: January 6, 2009


21 Richard W. Wieking, Clerk
22 By: Jennifer Ottolini, Deputy Clerk
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