

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARTICE D. LOHNER,)
)
Petitioner,)
)
v.)
)
KATHLEEN PROSPER, Warden)
)
Respondent.)
_____)

No. C 06-7670 SI (PR)

**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

The Court denied the petition in the above-titled matter, and entered judgment in favor of Respondent. Petitioner has now filed a notice of appeal.

The Court construes petitioner’s filing of a notice of appeal as including a request for a certificate of appealability pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b). See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997). Petitioner has not shown, however, “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right.” Slack v. McDaniel, 529 U.S. 473, 484 (2000).

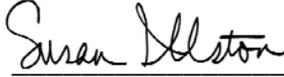
Accordingly, the request for a certificate of appealability is DENIED.

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The Clerk shall forward this order, along with the case file, to the United States Court of Appeals for the Ninth Circuit, from which petitioner may also seek a certificate of appealability.

IT IS SO ORDERED.

DATED: 1/11/10



SUSAN ILLSTON
United States District Judge