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

ANTHONY WASHINGTON,

C 06-7760 WHA (PR)

Petitioner,

**ORDER DENYING CERTIFICATE OF
APPEALABILITY**

vs.

T. FELKER,

Respondent.

(Docket Nos. 35)

Petitioner, a California prisoner proceeding *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254. The petition was denied on its merits. Petitioner has filed a motion for a certificate of appealability. *See* 28 U.S.C. 2253(c); Fed. R. App. P. 22(b).

“Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate 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).

Except for substituting the word “constitutional” for the word “federal,” section 2253(c)(2) codified the standard announced by the Supreme Court in *Barefoot v. Estelle*, 463 U.S. 880, 892–93 (1983). *Slack*, 529 U.S. at 475. In *Barefoot*, the court explained that “a substantial showing of the denial of [a] federal right” means that a petitioner “must demonstrate that the issues are debatable among jurists of reason; that a court could resolve the issues [in a different manner], or that the questions are adequate to deserve encouragement to proceed further.” *Barefoot*, 463 U.S. at 893

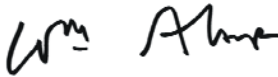
1 n.4 (citations and internal quotations omitted). Any doubts about whether the *Barefoot* standard
2 has been met must be resolved in petitioner's favor. *Lambright v. Stewart*, 220 F.3d 1022, 1024–25
3 (9th Cir. 2000).

4 The instant petition was denied after careful consideration of the merits. The Court found
5 no violation of petitioner's federal constitutional rights in the underlying state court proceedings.
6 Petitioner has failed to demonstrate that jurists of reason would find it debatable whether this Court
7 was correct in its ruling. Accordingly, petitioner's request for a certificate of appealability (Docket
8 No. 60) is **DENIED**. Petitioner's motion for an extension of time to file a notice of appeal (Docket
9 No. 58) is **GRANTED**. Petitioner's notice of appeal is deemed timely filed.

10 The clerk shall serve notice of this order forthwith to the United States Court of Appeal and
11 to the parties. See Fed. R. App. P. 24(a).

12 **IT IS SO ORDERED.**

13 Dated: November 12, 2009.

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15 _____
16 WILLIAM ALSUP
17 UNITED STATES DISTRICT JUDGE