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United States District Court  
For the Northern District of California

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

ROBERT LAMAR BALL,

Petitioner,

v.

WARDEN D.K. SISTO,

Respondent.

No. C 07-2726 MMC (PR)

**ORDER DENYING CERTIFICATE  
OF APPEALABILITY**

(Docket No. 25)

On June 28, 2007, petitioner, a California prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the validity of his state conviction. By order filed November 1, 2010, the Court denied the petition to the extent it was based on petitioner’s claims of juror misconduct and trial court error pertaining to the waiver of petitioner’s right to a jury trial on the sentencing allegations. By that same order, the Court granted the petition to the extent it was based on petitioner’s ineffective assistance of counsel claim. Petitioner thereafter filed a notice of appeal from the above-referenced denials, along with a request for a certificate of appealability (“COA”) pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b).

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

1 straightforward: the petitioner must demonstrate that reasonable jurists would find the district  
2 court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529  
3 U.S. 473, 484 (2000).


4 Applying such standard to the claims herein, and for the reasons discussed by the  
5 Court in denying the above-referenced two claims, the Court finds petitioner has not  
6 demonstrated that reasonable jurists would find the Court's assessment of such claims  
7 debatable or wrong. Accordingly, the request for a COA is hereby DENIED.

8 The Clerk shall forward this order, along with the case file, to the United States Court  
9 of Appeals for the Ninth Circuit, from which petitioner may also seek a certificate of  
10 appealability. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

11 This order terminates Docket No. 25.

12 IT IS SO ORDERED.

13 DATED: December 27, 2010

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15 MAKINE M. CHESNEY  
16 United States District Judge  
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