

United States District Court
For the Northern District of California

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

KENNETH WAYNE SAMILTON,

No C-08-2755 VRW (PR)

Petitioner,

ORDER DENYING CERTIFICATE OF
APPEALABILITY

v

ROBERT A HOREL, Warden,

(Doc #7)

Respondent.

_____ /

Petitioner has filed a notice of appeal and request for a certificate of appealability pursuant to 28 USC section 2253(c) and Federal Rule of Appellate Procedure 22(b). Doc #7.

Petitioner's request for a certificate of appealability is DENIED because petitioner has not made "a substantial showing of the denial of a constitutional right." 28 USC § 2253(c)(2). Nor has petitioner demonstrated that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v McDaniel, 529 US 473, 484 (2000).

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The clerk shall forward to the court of appeals the case file with this order. See United States v Asrar, 116 F3d 1268, 1270 (9th Cir 1997).

IT IS SO ORDERED.



VAUGHN R WALKER
United States District Chief Judge