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

JUAN MONARREZ,	)	No. C 08-3198 JSW (PR)
	)	
Petitioner,	)	
	)	<b>ORDER DENYING</b>
vs.	)	<b>CERTIFICATE OF</b>
	)	<b>APPEALABILITY</b>
RICHARD J. KIRKLAND, Warden,	)	
	)	<b>(Docket no. 20)</b>
Respondent.	)	

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Petitioner, a prisoner of the State of California, filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2254 . In an order dated March 10, 2010, this Court dismissed the petition on procedural grounds (docket no. 16). Petitioner has filed a notice of appeal (docket no. 18) and a motion seeking a certificate of appealability (docket no. 20).

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). “Determining whether a COA should issue where the petition was dismissed on procedural grounds has two components, one directed at the underlying constitutional claims and one directed at the district court’s procedural holding.” *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). “When the district court denies a habeas petition on procedural grounds without reaching the prisoner’s underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Id.* at 484; *see*

1 *James v. Giles*, 221 F.3d 1074, 1077 (9th Cir. 2000). As each of these components is a  
2 “threshold inquiry,” the federal court “may find that it can dispose of the application in a  
3 fair and prompt manner if it proceeds first to resolve the issue whose answer is more  
4 apparent from the record and arguments.” *Slack*, 529 U.S. at 485. Supreme Court  
5 jurisprudence “allows and encourages” federal courts to first resolve the procedural  
6 issue. *See id.*

7 Petitioner has not established that “jurists of reason would find it debatable  
8 whether the district court was correct in its procedural ruling.” *Id.* at 484. Accordingly,  
9 the request for a certificate of appealability is DENIED (docket no. 20). The Clerk of  
10 Court shall forward this order, along with the case file, to the United States Court of  
11 Appeals for the Ninth Circuit. *United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir.  
12 1997).

13 IT IS SO ORDERED.

14 DATED: November 1, 2010

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

5  
6 JUAN MONARREZ,  
7 Plaintiff,

Case Number: CV08-03198 JSW

**CERTIFICATE OF SERVICE**

8 v.

9 RICHARD J. KIRKLAND et al,  
10 Defendant.  
11 \_\_\_\_\_/

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

14 That on November 1, 2010, I SERVED a true and correct copy(ies) of the attached, by placing  
15 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by  
16 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office  
17 delivery receptacle located in the Clerk's office.

17 Juan Monarrez  
18 P50731  
19 P.O. Box 7500  
20 Crescent City, CA 95532

21 Dated: November 1, 2010



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