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

CHARLES E. LYONS II,)	
)	
Petitioner,)	No. C 08-3205 CRB (PR)
)	
vs.)	ORDER DENYING
)	CERTIFICATE OF
D. K. SISTO, Warden,)	APPEALABILITY
)	
Respondent.)	
_____)	

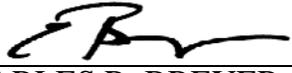
Petitioner has filed a notice of appeal which the court also construes as a request for a certificate of appealability under 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b).

A certificate of appealability is DENIED because petitioner has not made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Petitioner has not demonstrated 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).

The clerk shall forward to the court of appeals the case file with this order. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

SO ORDERED.

DATED: Sept. 3, 2009



 CHARLES R. BREYER
 United States District Judge