

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

MARK LAFARGA,	No. C-08-4420 TEH (PR)
Petitioner,	
v.	ORDER DENYING REQUEST FOR CERTIFICATE OF APPEALABILITY
M. MARTEL, Warden,	
Respondent.	(Doc. #16)

_____ /

Petitioner has filed a Notice of Appeal, which the Court also construes as an application for a Certificate of Appealability under 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b). Doc. #16. Petitioner is appealing this Court's November 3, 2009 Order dismissing his 28 U.S.C. § 2254 petition on the ground that it was untimely under 28 U.S.C. § 2244(d). Doc. #14.

Petitioner's request for a Certificate of Appealability is DENIED because he has not demonstrated 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." Slack v. McDaniel, 529 U.S. 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 F.3d 1268, 1270 (9th Cir. 1997).

IT IS SO ORDERED.

DATED 09/20/10



THELTON E. HENDERSON
United States District Judge