

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

CORY MOSBY,

No. C-09-1667 MMC

Petitioner,

**ORDER DENYING CERTIFICATE OF
APPEALABILITY; DIRECTIONS TO
CLERK**

v.

JAMES A. YATES,

Respondent.

The Ninth Circuit Court of Appeals having remanded the above-titled action to this Court for the limited purpose of granting or denying a certificate of appealability with respect to the Court's February 10, 2011 order denying petitioner Cory Mosby's petition for a writ of habeas corpus, the Court rules as follows.

A certificate of appealability is hereby DENIED. See 28 U.S.C. § 2253(c)(1)(A); Rules Governing Habeas Corpus Cases Under § 2254, Rule 11 (requiring district court to issue or deny certificate of appealability when entering final order adverse to petitioner). Specifically, petitioner has failed to make a substantial showing of the denial of a constitutional right, as he has not demonstrated that reasonable jurists would find the Court's assessment of the constitutional claims debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000).

The Clerk is hereby DIRECTED to send a copy of this order to the Ninth Circuit

1 Court of Appeals.

2 **IT IS SO ORDERED.**

3 Dated: May 19, 2011

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


MAXINE M. CHESNEY
United States District Judge