IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

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| LOUIS CHEATOM,<br><br>Petitioner,<br><br>vs.<br><br>RANDY GROUNDS, Warden,<br><br>Respondent. | No. C 10-0590 JSW (PR)<br><br>**ORDER DENYING CERTIFICATE OF APPEALABILITY**<br><br>(Docket No. 10) |

Petitioner filed a pro se habeas corpus petition pursuant to 28 U.S.C. § 2254. It was directed to a disciplinary proceeding in which, as a sanction for violating prison rules, Petitioner lost 30 days of good time credits and some privileges. Respondent moved to dismiss, arguing that the loss of good time could not affect Petitioner's sentence because he was serving a life term. Petitioner was unable to point to any way in which the disciplinary sanction could affect the term of his imprisonment. The Court granted the motion.

Petitioner filed a notice of appeal. The Ninth Circuit now has remanded the case for the limited purpose of considering whether a certificate of appealability (COA) should be granted.

A judge shall grant a certificate of appealability "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The certificate must indicate which issues satisfy this standard. *See id.* § 2253(c)(3). "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." *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). For the reasons set out in the ruling on the motion to dismiss, jurists of reason would not find the order granting Respondent's motion to dismiss debatable or wrong. Petitioner's request for a certificate of appealability (docket number 10) is DENIED.

As instructed in the order of remand, the clerk shall transmit the record and this order to the Court of Appeals.

IT IS SO ORDERED.

DATED: December 21, 2011

JEFFREY S. WHITE
United States District Judge

UNITED STATES DISTRICT COURT

FOR THE

NORTHERN DISTRICT OF CALIFORNIA

LOUIS CHEATOM,

Plaintiff,

v.

C. NOLL et al,

Defendant.

_____/

Case Number: CV10-00590 JSW

**CERTIFICATE OF SERVICE**

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

That on December 21, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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P.O. Box 689
Soledad, CA 93960

Dated: December 21, 2011

Jennifer Ottolini

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