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

CALVIN D. PRITCHETT, JR,

No. 06-2208 CW

Petitioner,

ORDER GRANTING,
IN PART,
CERTIFICATE OF
APPEALABILITY

v.

JAMES DAVIS, Chairman, Board of
Parole Hearings,

Respondent.

Petitioner filed a habeas corpus petition pursuant to 28 U.S.C. § 2254, alleging as a violation of his due process rights a denial of parole by the California Board of Parole Hearings (Board) and two other claims. On March, 19 2008, the Court entered judgment denying the petition. Petitioner has appealed and the Ninth Circuit has remanded for this Court to determine whether to issue a certificate of appealability.

A habeas petitioner may not appeal a final order in a federal habeas proceeding without first obtaining a certificate of appealability (formerly known as a "certificate of probable cause to appeal"). 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b); Hayward v. Marshall, 2010 WL 1664977, at *5 (9th Cir. Apr. 22, 2010) (en banc) (holding certificate of appealability required in habeas

1 cases challenging denial of parole). A certificate of
2 appealability should be granted "only if the applicant has made a
3 substantial showing of the denial of a constitutional right." 28
4 U.S.C. § 2253(c)(2). The certificate of appealability must
5 indicate which issue or issues satisfy the showing required by
6 § 2253(c)(2). 28 U.S.C. § 2253(c)(3).

7 The Court finds that Petitioner has made a sufficient showing
8 of the denial of a constitutional right in regard to the claim that
9 his due process rights were violated by the denial of parole by the
10 Board. Petitioner has not made a showing of the denial of a
11 constitutional right regarding the two other claims he alleged.

12 CONCLUSION

13 Accordingly, the Court grants, in part, a certificate of
14 appealability to Petitioner.

15
16 IT IS SO ORDERED.



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18 Dated: May 28, 2010

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20 CLAUDIA WILKEN
21 United States District Judge
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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 CALVIN D. PRITCHETT JR.,

5 Plaintiff,

6 v.

7 BOARD OF PAROLE HEARINGS et al,

8 Defendant.

Case Number: CV06-02208 CW

CERTIFICATE OF SERVICE

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

11 That on May 28, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies)
12 in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in
13 the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's
14 office.

15 Calvin D Pritchett Jr. H56017
16 PO Box 689 B-237-U
17 Soledad, CA 93960-0689

18 Dated: May 28, 2010

19 Richard W. Winking, Clerk
20 By: Ronnie Hersler, Administrative Law Clerk

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United States District Court
For the Northern District of California