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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

Richard Quilopras,

NO. C 02-02927 JW

Petitioner,

**ORDER DENYING CERTIFICATE OF APPEALABILITY**

v.

Don Horsley, et al.,

Respondents.

On September 30, 2009, the Court denied Petitioner’s Writ of Habeas Corpus and entered judgment accordingly. (Docket Item Nos. 62, 63.) On October 30, 2009, Petitioner filed a Notice of Appeal. (Docket Item No. 64.) In his Notice, Petitioner asks the Court to issue a certificate of appealability. (Id.)

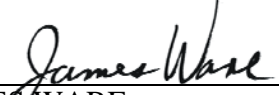
Upon the filing of a notice of appeal and a request for a certificate of appealability (“COA”), the district court shall indicate which specific issue or issues satisfy the standard for issuing a certificate, or state its reasons why a certificate should not be granted. 28 U.S.C. § 2253(c)(3)). If no express request is made for a COA, the notice of appeal shall be deemed to constitute a request for a certificate. See id. A judge shall grant a COA “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), and the court of appeals is limited to considering only those claims. See Hiiivala v. Wood, 195 F.3d 1098, 1103 (9th Cir. 1999); Fuller v. Roe, 182 F.3d 699, 702-03 (9th Cir. 1999). “Where a district court has rejected the constitutional

United States District Court  
For the Northern District of California

1 claims on the merits, the showing required to satisfy § 2253(c) is straightforward: the petitioner must  
2 demonstrate that reasonable jurists would find the district court’s assessment of the constitutional  
3 claims debatable or wrong.” Slack v. McDaniel, 529 U.S. 473, 484 (2000).

4 Applying the standards above, the Court finds that Petitioner has failed to make the requisite  
5 showing of the denial of a constitutional right and that reasonable jurists would find the Court’s  
6 assessment debatable or wrong. Accordingly, the Court declines to issue a certificate of  
7 appealability.

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9 Dated: November 20, 2009

  
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JAMES WARE  
United States District Judge

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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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5 Morris Beatus [morris.beatus@doj.ca.gov](mailto:morris.beatus@doj.ca.gov)

6 **Dated: November 20, 2009**

**Richard W. Wieking, Clerk**

7 **By:           /s/ JW Chambers**  
8 **Elizabeth Garcia**  
9 **Courtroom Deputy**

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