

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

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TODD D. PICKENS,)	No. C 05-2130 JF (PR)
)	
Petitioner,)	ORDER DENYING MOTION FOR
vs.)	A CERTIFICATE OF
)	APPEALABILITY
)	
BEN CURRY, Warden,)	
)	
Respondent.)	(Docket No. 51)
_____)	

On April 25, 2008, the Court denied this pro se petition for writ of habeas corpus on the merits and entered judgment in favor of Respondent. Petitioner filed for extensions of time to file a notice of appeal, which the Court granted such that Petitioner had until July 27, 2008 to file a timely notice of appeal. On July 23, 2008, Petitioner signed his notice of appeal, which was filed with the Court on July 29, 2008. (Docket No. 52.) The same day, Petitioner filed a motion for a certificate of appealability. (Docket No. 51.)

A petitioner may not appeal a final order in a federal habeas corpus proceeding without first obtaining a certificate of appealability (formerly known as a certificate of probable cause to appeal). See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A judge shall

1 grant a certificate of appealability “only if the applicant has made a substantial showing
2 of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The certificate must
3 indicate which issues satisfy this standard. See id. § 2253(c)(3).

4 “Where a district court has rejected the constitutional claims on the merits, the
5 showing required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate
6 that reasonable jurists would find the district court’s assessment of the constitutional
7 claims debatable or wrong.” Slack v. McDaniel, 529 U.S. 473, 484 (2000). The Court
8 denied the instant habeas petition after careful consideration of the merits. The Court
9 found no violation of Petitioner’s federal constitutional rights in the underlying state court
10 proceedings. Petitioner has failed to demonstrate that jurists of reason would find it
11 debatable whether this Court was correct in its ruling. Accordingly, Petitioner’s request
12 for a certificate of appealability (Docket No. 51) is DENIED.

13 The clerk shall forward to the court of appeals the case file with this order. See
14 Fed. R. App. P. 22(b).

15 IT IS SO ORDERED.

16 DATED: 11/5/08

17 
18 _____
19 JEREMY FOGEL
20 United States District Judge
21
22
23
24
25
26
27
28