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United States District Court
For the Northern District of California

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

COLVIN MCCRIGHT,)	No. C 05-03266 JW (PR)
)	
Petitioner,)	ORDER DENYING CERTIFICATE
)	OF APPEALABILITY
vs.)	
)	
JOE MCGRATH, Warden,)	
)	
Respondent.)	
_____)	

On March 24, 2010, the Court denied this pro se petition for writ of habeas corpus, which challenged the denial of parole, on the merits and entered judgment in favor of respondent. Petitioner filed a notice of appeal and the matter was forwarded to the United States Court of Appeals for the Ninth Circuit.

On May 26, 2010, the Ninth Circuit remanded this case for the limited purpose of granting or denying a certificate of appealability. See Hayward v. Marshall, 603 F.3d 546, 554-55 (9th Cir. 2010) (en banc) (overruling those portions of White v. Lambert, 370 F.3d 1002, 1004 (9th Cir. 2004), and Rosas v. Nielsen, 428 F.3d 1229, 1231-32 (9th Cir. 2005) (per curiam), that relieved a prisoner from obtaining a certificate of appealability to review the denial of a habeas petition challenging an administrative decision denying parole).


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“Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” Slack v. McDaniel, 529 U.S. 473, 484 (2000). The Court denied the instant habeas petition after careful consideration of the merits. The Court found no violation of petitioner’s federal constitutional rights in the administrative decision denying parole. Petitioner has failed to demonstrate that jurists of reason would find it debatable whether this Court was correct in its ruling. Accordingly, a certificate of appealability is DENIED.

The clerk shall forward this order to the Ninth Circuit from which petitioner may also seek a certificate of appealability. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

The Clerk shall close the file.

DATED: June 4, 2010


JAMES WARE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

COLVIN MCCRIGHT,
Petitioner,

Case Number: CV05-03266 JW

CERTIFICATE OF SERVICE

v.

JOE MCGRATH, Warden; et al.,
Respondents.

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 6/4/2010, 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.

Colvin McCright B-08892
Pelican Bay State Prison
5905 Lake Earl Drive
P.O. Box 7000
Crescent City, CA 95532

Dated: 6/4/2010

Richard W. Wieking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk

Colvin McCright B-08892
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5905 Lake Earl Drive
P.O. Box 7000
Crescent City, CA 95532

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