

NOT FOR CITATION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

CHU TRAN,)	No. C 06-06374 JF (PR)
)	
Petitioner,)	ORDER DENYING REQUEST FOR
)	CERTIFICATE OF APPEALABILITY
vs.)	
)	
JAMES WALKER, Warden,)	
)	
Respondent.)	
)	(Docket No. 26)

On September 19, 2008, the Court denied this pro se petition for writ of habeas corpus on the merits and entered judgment in favor of Respondent. On April 17, 2009, Petitioner filed a “belated notice of appeal” and a request for a certificate of appealability, after his motion for reconsideration was denied on January 15, 2009. (Docket No. 14.).

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 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).

“Where a district court has rejected the constitutional claims on the merits, the

1 showing required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate
2 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). The Court
4 denied the instant habeas petition after careful consideration of the merits. The Court
5 found no violation of Petitioner's federal constitutional rights in the underlying state court
6 proceedings. Petitioner has failed to demonstrate that jurists of reason would find it
7 debatable whether this Court was correct in its ruling. Accordingly, Petitioner's request
8 for a certificate of appealability (Docket No. 26) is DENIED.

9 The Clerk shall forward this order, along with the case file, to the United States
10 Court of Appeals for the Ninth Circuit, from which Petitioner may also seek a certificate
11 of appealability. See Fed. R. App. P. 22(b); see United States v. Asrar, 116 F.3d 1268,
12 1270 (9th Cir. 1997).

13 This order terminates Docket No. 26.

14 IT IS SO ORDERED.

15 DATED: 10/15/09


JEREMY FOGEL
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

CHU TRAN,

Petitioner,

v.

JAMES WALKER, Warden,

Respondent.

Case Number: CV06-06374 JF

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 10/20/09, 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.

Chu Tran V03081
CA State Prison-Folsom
P.O. Box 290066
A7-123
Represa, CA 95671-0066

Dated: 10/20/09

Richard W. Wieking, Clerk