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NOT FOR CITATION  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

SAMUEL W. LEWIS,	)	No. C 08-03934 JF (PR)
Petitioner,	)	ORDER GRANTING
vs.	)	CERTIFICATE OF
BEN CURRY, Warden,	)	APPEALABILITY
Respondent.	)	

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This case has been remanded to the district court for the limited purpose of granting or denying a certificate of appealability. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b); United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997). Petitioner filed a notice of appeal from the district court’s denial of his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the California Board of Prison Terms (“Board”) decision denying him parole. Therefore, the district court is required to grant or deny a certificate of appealability in the first instance. See Hayward v. Marshall, 603 F.3d 546 (9th Cir. 2010) (en banc).


The Court finds that jurists of reason would find it debatable whether Petitioner’s right to due process was violated by the Board’s decision denying him parole based upon

1 his claim that there is no evidence to support the Board's finding that he is unsuitable for  
2 parole. Therefore, the request for a certificate of appealability is GRANTED.

3 The Clerk shall transmit the file, including a copy of this order, to the Court of  
4 Appeals and close the file.

5 IT IS SO ORDERED.

6 DATED: 7/16/10

  
7 JEREMY FOGEL  
United States District Judge

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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

SAMUEL W. LEWIS,  
Petitioner,

Case Number: CV08-03934 JF

**CERTIFICATE OF SERVICE**

v.

WARDEN BEN CURRY,  
Respondent.

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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 7/26/10, 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.

Samuel W. Lewis E05524  
Correctional Training Facility  
P.O. Box 689  
Soledad, CA 93960-0689

Dated: 7/26/10

Richard W. Wieking, Clerk  
By: Christine Allen, Deputy Clerk

Samuel W. Lewis E05524  
Correctional Training Facility  
P.O. Box 689  
Soledad, CA 93960-0689

CV08-03934 JF