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NOT FOR CITATION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

CARMEN RAY MALDONADO, JR.,)	No. C 08-05494 JF (PR)
)	
Petitioner,)	ORDER DENYING CERTIFICATE
)	OF APPEALABILITY
vs.)	
)	
JUDGE STEVEN R. SANDERS, et)	
al.,)	
)	
Respondents.)	(Docket No. 8)

On April 30, 2009, the Court dismissed the instant civil rights action without prejudice for Petitioner’s failure to pay the filing fee or file a completed in forma pauperis application. (Docket No. 4.) A judgment of dismissal without prejudice was entered. On June 3, 2009, Petitioner filed a notice of appeal, which the Court construes as a motion for a certificate of appealability. (Docket No. 8.)

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. §

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2253(c)(2). The certificate must indicate which issues satisfy this standard. See id.
§ 2253(c)(3).

Petitioner has not shown “that jurists of reason would find it debatable
whether the petition states a valid claim of the denial of a constitutional right and
that jurists of reason would find it debatable whether the district court was correct in
its procedural ruling.” Slack v. McDaniel, 529 U.S. 473, 484 (2000). Accordingly,
the motion for a certificate of appealability is DENIED.

The Clerk shall forward this order, along with the case file, to the United
States Court of Appeals for 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).

IT IS SO ORDERED.

DATED: 1/4/10



JEREMY FOGEL
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

CARMEN R. MALDONADO,
Petitioner,

Case Number: CV08-05494 JF

CERTIFICATE OF SERVICE

v.

STEVEN R. SANDERS, 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 1/7/10, 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.

Carmen Roy Maldonado T-72346
PO Box 2790
Salinas, CA 93902

Dated: 1/7/10

Richard W. Wieking, Clerk