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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

JOSE GILBERTO HERNANDEZ,)

Petitioner,)

vs.)

D. K. SISTO, Warden,)

Respondent.)
_____)

No. C 09-00165 JW (PR)

ORDER DENYING MOTION FOR
CERTIFICATE OF
APPEALABILITY

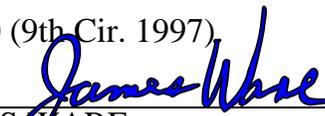
Petitioner has filed a notice of appeal and request for a certificate of appealability under 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b).

Petitioner’s request for a certificate of appealability is DENIED because petitioner has not made “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Petitioner has not demonstrated 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 clerk shall forward to the Court of Appeals the case file with this order.

See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

DATED: June 23, 2010 _____



JAMES WARE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JOSE GILBERTO HERNANDEZ,
Petitioner,

Case Number: CV09-00165 JW

CERTIFICATE OF SERVICE

v.

D K SISTO, Warden,

Respondent.

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 6/24/2010, 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.

Jose Gilberto Hernandez J-12875
California State Prison - Solano
2100 Peabody Road
P. O. Box 4000
Vacaville, Ca 95696-4000

Dated: 6/24/2010

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

Jose Gilberto Hernandez J-12875
California State Prison - Solano
2100 Peabody Road
P. O. Box 4000
Vacaville, Ca 95696-4000

CV09-00165 JW