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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

DEMETRIUS BORSTAD,	)	No. C 09-03756 JW (PR)
Petitioner,	)	ORDER DENYING REQUEST FOR CERTIFICATE OF APPEALABILITY
vs.	)	
J. HARTLEY, Warden,	)	
Respondent.	)	
_____	)	

Petitioner, a California prisoner, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his state conviction. On January 15, 2010, the Court dismissed the petition as a second or successive petition. (See Docket No 7.) Petitioner has filed a notice of appeal which the Court construes as a request for a certificate of appealability, (Docket No. 9).

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 request for a certificate of appealability is DENIED.

The Clerk shall forward this order, along with the case file, to the United States

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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).

DATED: May 5, 2010

  
\_\_\_\_\_  
JAMES WARE  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

DEMETRIUS BORSTAD,  
Petitioner,

Case Number: CV09-03756 JW

**CERTIFICATE OF SERVICE**

v.

J. HARTLEY, 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 5/5/2010, 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.

Demetrius Borstad D-73472  
Avenal State Prison  
P. O. Box 900  
Avenal, CA 93204

Dated: 5/5/2010

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