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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MARTIN EDWARD WALTERS,

Petitioner,

vs.

D.K. SISTO, Warden,

Respondent.

CASE NO. 08cv0167 DMS (AJB)

**ORDER DENYING REQUEST
FOR CERTIFICATE OF
APPEALABILITY**

[Doc. 30]

On December 29, 2008, this Court issued an order denying Martin Edward Walter's ("Petitioner's") Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, and adopting Magistrate Judge Nita L. Stormes's Report and Recommendation ("R&R," Doc. 17) recommending the same. (Doc. 23.) Pursuant to Federal Rules of Civil Procedure 52 and 59(b), Petitioner filed a motion to amend or alter the Court's judgment on January 14, 2009. (Doc. 27.) Petitioner then filed a Notice of Appeal and Application for Certificate of Appealability, on January 26, 2009. (Docs. 29-30.) Respondent filed a response and Petitioner filed a reply. (Docs. 31-32.) On March 9, 2009, the Court denied Petitioner's motion to amend or alter the Court's judgment. (Doc. 33.)

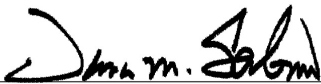
A certificate of appealability is authorized "if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). "A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve

1 encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). *See also Slack*
2 *v. McDaniel*, 529 U.S. 473, 484 (2000).

3 Having reviewed the application, petition, R&R, the December 29, 2008 order denying the
4 petition, the motion to alter or amend, and the March 9, 2009 order denying the motion to alter or
5 amend, the Court finds Petitioner has failed to demonstrate that reasonable jurists would find this
6 Court’s denial of the petition debatable. Therefore, Petitioner’s request for a certificate of
7 appealability is denied.

8 **IT IS SO ORDERED.**

9 DATED: March 13, 2009



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11 HON. DANA M. SABRAW
12 United States District Judge

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