



1 **A. Certificate of Appealability.**

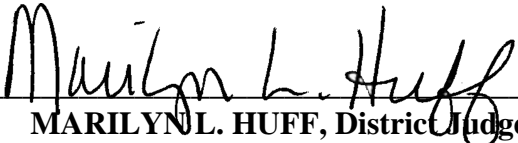
2 A petitioner may not seek an appeal of a claim arising out of state court detention unless  
3 the petitioner first obtains a certificate of appealability from a district judge or a circuit judge  
4 under 28 U.S.C. § 2253. Fed. R. App. P. 22(b). Under 28 U.S.C. § 2253(c)(1), a certificate of  
5 appealability will issue only if the petitioner makes a substantial showing of the denial of a  
6 constitutional right. Moreover, when a district court has denied a petition on procedural  
7 grounds, a certificate of appealability should issue if the petitioner shows both that jurists of  
8 reason would find it debatable whether the petition states a valid claim of the denial of a  
9 constitutional right and that jurists of reason would find it debatable whether the district court  
10 was correct in its procedural ruling. Slack v. McDaniel, 529 U.S. 473, 484-85 (2000). A court  
11 need not address both showings if one showing is defective. Slack, 529 U.S. at 485. The  
12 statute of limitations in 28 U.S.C. § 2244(d)(1) requires that federal habeas review occur within  
13 one-year of the conclusion of a state’s direct review. Even if all of Petitioner’s arguments about  
14 his state collateral review are correct, the petition is still time-barred because Petitioner’s  
15 collateral review did not begin until almost nine years after the completion of direct review, and  
16 therefore no reasonable jurist could find that the federal petition was timely filed.

17 After reviewing the Court’s order (Doc. No. 17), and considering the points raised in the  
18 application for a certificate of appealability (Doc. No. 20), the Court concludes that Petitioner  
19 has failed to make a substantial showing of a denial of a constitutional right.

20 **Conclusion**

21 For the reasons stated above, the Court DENIES a Certificate of Appealability.  
22 IT IS SO ORDERED.

23 DATED: July 17, 2009

24   
25 **MARILYN L. HUFF, District Judge**  
26 **UNITED STATES DISTRICT COURT**

26 COPIES TO:  
27 All parties of record.

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