

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

EDWARD JONES,

Petitioner,

v.

JEANNE WOODFORD, Warden,

Respondent.

Civil No. 10cv1015-MMA (CAB)

**ORDER DENYING PETITIONER'S
APPLICATION FOR CERTIFICATE
OF APPEALABILITY**

[Doc. No. 8]

On May 11, 2010, Petitioner, Edward Jones, a state prisoner proceeding *pro se*, submitted a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 challenging his November 8, 2000, San Diego Superior Court conviction in San Diego Superior Court Case No. SCD147533. (Doc. No. 1.) On May 18, 2010, the Court issued an Order summarily dismissing the Petition on grounds that it was a successive petition filed without permission of the Ninth Circuit Court of Appeals pursuant to 28 U.S.C. § 2244(b)(3)(A). On June 2, 2010, the Court issued an Order denying Petitioner's motion to set aside the Court's May 18, 2010 Order pursuant to Federal Rule of Civil Procedure 60(b)(6). (Doc. No. 6.) Before Petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). On June 10, 2010, Petitioner timely filed a notice of appeal with an application for a Certificate of Appealability in response to the Court's June 2, 2010 Order. (Doc. No. 8.)

A petitioner may not seek an appeal of a claim arising out of a state court detention unless the petitioner first obtains a certificate of appealability from a district judge or a circuit judge under 28

1 U.S.C. § 2253. Fed. R. App. P. 22(b). Under 28 U.S.C. § 2253(c)(1), a certificate of appealability will
2 issue only if the petitioner makes a substantial showing of the denial of a constitutional right. Pursuant
3 to Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, the Court
4 has considered whether a certificate of appealability is warranted in this case. *See* 28 U.S.C. §
5 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484–85 (2000). The Court concludes that a certificate of
6 appealability is unwarranted because Plaintiff has not made a substantial showing of the denial of a
7 constitutional right. Accordingly, the Court **DENIES** Petitioner’s request for a certificate of
8 appealability.

9 **IT IS SO ORDERED.**

10 DATED: June 16, 2010

11 

12 Hon. Michael M. Anello
13 United States District Judge

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28