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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 ERICA D. HAYWOOD,
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Petitioner,
v.
SAN DIEGO COUNTY SHERIFF,
Respondent.

Case No.: 18cv1252-CAB-WVG

**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

On June 14, 2018, this Court issued an order denying in forma pauperis application as moot and dismissing case without prejudice. [Doc. No. 3.] On July 23, 2018, Petitioner filed a Notice of Appeal. [Doc. No. 4.] On August 8, 2018, the Ninth Circuit Court of Appeals issued an order “remand[ing] the case to the district court for the limited purpose of granting or denying a certificate of appealability at the court’s earliest convenience.” [Doc. No. 4 at 1.]

A petitioner complaining of detention arising from state court proceedings must obtain a certificate of appealability to file an appeal of the final order in a federal habeas proceeding. 28 U.S.C. § 2253(c)(1)(A) (2007). The district court may issue a certificate of appealability if the petitioner “has made a substantial showing of the denial of a constitutional right.” Id. § 2253(c)(2). To make a “substantial showing,” the petitioner must “demonstrat[e] that ‘reasonable jurists would find the district court's assessment of


1 the constitutional claims debatable[.]’ ” *Beaty v. Stewart*, 303 F.3d 975, 984 (9th
2 Cir.2002) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

3 Here, Petitioner has not made a “substantial showing” as to any of the claims
4 raised by his petition. 28 U.S.C. § 2253(c)(2). Three of the claims involve conditions of
5 confinement and are, therefore, not properly brought in a habeas action under 28 U.S.C.
6 §2254. *Preiser v. Rodriguez*, 411 U.S. 475 (1973). The only remaining claim involves
7 ongoing state criminal proceedings and is barred from consideration under *Younger v.*
8 *Harris*, 401 U.S. 37 (1971). “Reasonable jurist” would not disagree with this conclusion.
9 *Beaty*, 303 F.3d at 984. Therefore, the certificate of appealability is **DENIED**.

10 The Clerk of the Court shall forward to the Ninth Circuit Court of Appeals the
11 record with this order denying the certificate of appealability.

12 **IT IS SO ORDERED.**

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14 Dated: August 8, 2018

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17 Hon. Cathy Ann Bencivengo
18 United States District Judge
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