

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Richard P. Matsch**

Civil Action No. 12-cv-2585-RPM

RAMZI YOUSEF,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

ORDER GRANTING MOTION FOR CERTIFICATE OF APPEALABILITY

In a separate order entered today, the Court denied Ramzi Yousef's Motion for Relief from Judgment under Federal Rule of Civil Procedure 60. As an alternative to relief under Rule 60, Yousef sought a certificate of appealability under 28 U.S.C. § 2253 as to the Court's dismissal of his habeas corpus Application. [See Doc. 88 ¶ 2.]

A certificate of appealability may not be granted unless the applicant makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This requires a prisoner to demonstrate "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). Here, Yousef asserted a procedural due process claim under the Fifth Amendment challenging the process by which Respondent imposes Special Administrative Measures ("SAMs") on him. Although the Court held that Yousef failed to establish that a liberty interest is infringed by SAMs renewal [see Doc. 83 at 3-11], that

conclusion is debatable among reasonable jurists. The adequacy of the renewal process employed by Respondent, a question the Court did not reach, is also debatable. [See *id.* at 11-12.] Accordingly, the Court concludes that both elements of Yousef's procedural due process claim are appealable under 28 U.S.C. § 2253, and it is

ORDERED that Ramzi Yousef's Motion for a Certificate of Appealability [Doc. 88 ¶ 2] is granted. The clerk shall provide a copy of this Order to the United States Court of Appeals for the Tenth Circuit in conjunction with transmission of Yousef's Notice of Appeal.

Dated: June 26, 2014.

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch
Senior District Judge