

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

THOMAS JOSEPH CUTAIA,

Petitioner,

v.

CASE NO. 6:08-cv-579-Orl-35DAB

SECRETARY, DEPARTMENT
OF CORRECTIONS, et al.,

Respondents.

ORDER

Petitioner's Request for a Certificate of Appealability¹ (Doc. No. 28, filed Jan. 22, 2009) is **DENIED**. This Court should grant an application for certificate of appealability only if the Petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Petitioner has failed to make a substantial showing of the denial of a constitutional right.

DONE AND ORDERED at Orlando, Florida, this 4th day of February, 2009.



MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies to:
pslc 2/4
Counsel of Record
Thomas Joseph Cutaia

¹Petitioner's Notice of Appeal (Doc. No. 27, filed Jan. 22, 2009) has been construed as requesting a certificate of appealability. See *Edwards v. United States*, 114 F.3d 1083, 1084 (11th Cir. 1997).