

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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BENJAMIN J. WHERRY,)	
)	
Petitioner,)	
)	Civil Action No.
v.)	10-40159-FDS
)	
JEFFREY GRONDOLSKY, WARDEN of)	
FMC DEVENS,)	
)	
Respondent.)	
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ORDER ON CERTIFICATE OF APPEALABILITY

SAYLOR, J.

On October 28, 2010, this Court issued an order dismissing the petition for a writ of habeas corpus.

To appeal the final order in a proceeding instituted under 28 U.S.C. § 2255, the petitioner must first obtain a Certificate of Appealability (“COA”) from a circuit justice or a district court. See 28 U.S.C. § 2253(c). A COA will issue only if the petitioner “has made a substantial showing of the denial of a constitutional right.” § 2253(c)(2). This standard is satisfied by “demonstrating that jurists of reason could disagree with the district court’s resolution of [petitioner’s] constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

No such showing has been made here. Accordingly, the Court declines to issue a

certificate of appealability of its order of October 28, 2010.

So Ordered.

F. Dennis Saylor IV
United States District Judge

Dated: February 11, 2011