Doc. 40 Yeats v. Williams et al 1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 DISTRICT OF NEVADA 9 10 11 GARY LYNN YEATS, 12 Petitioner, 2: 09-cv-00798- KJD-RJJ 13 VS. **ORDER** 14 BRIAN WILLIAMS, et al., 15 Respondents. 16 17 This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which petitioner, 18 a state prisoner, is proceeding pro se. Petitioner has filed a motion for a certificate of appealability. 19 (Docket #39.) 20 In order to proceed with his appeal, petitioner must receive a certificate of appealability. 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22; 9th Cir. R. 22-1; Allen v. Ornoski, 435 F.3d 946, 950-951 21 22 (9th Cir. 2006); see also United States v. Mikels, 236 F.3d 550, 551-52 (9th Cir. 2001). Generally, a 23 petitioner must make "a substantial showing of the denial of a constitutional right" to warrant a certificate of appealability. Id.; 28 U.S.C. § 2253(c)(2); Slack v. McDaniel, 529 U.S. 473, 483-84 24 (2000). "The petitioner must demonstrate that reasonable jurists would find the district court's 25 26 assessment of the constitutional claims debatable or wrong." Id. (quoting Slack, 529 U.S. at 484). In

order to meet this threshold inquiry, the petitioner has the burden of demonstrating that the issues are debatable among jurists of reason; that a court could resolve the issues differently; or that the questions are adequate to deserve encouragement to proceed further. *Id.* 

This Court has considered the issues raised by petitioner, with respect to whether they satisfy the standard for issuance of a certificate of appealability, and determines that none meet that standard. **IT IS THEREFORE ORDERED** that petitioner's motion for certificate of appealability is **DENIED**. (Docket #39.)

DATED: November 17, 2010

**UNITED STATES DISTRICT JUDGE**