

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TERRY D. DIXON,)	
)	
Petitioner,)	3:13-cv-00248-RCJ-WGC
)	
vs.)	ORDER
)	
RENEE BAKER, <i>et al.</i> ,)	
)	
Respondents.)	
	/	

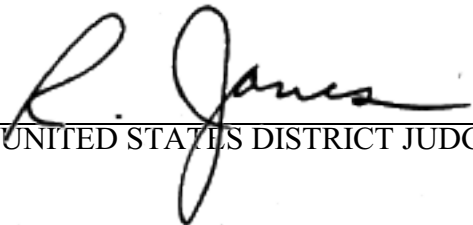
This closed action is a *pro se* petition for a writ of habeas corpus, filed pursuant 28 U.S.C. § 2254, by a Nevada state prisoner. By order filed July 9, 2014, the Court entered an order dismissing this action without prejudice for failure to exhaust state court remedies. (ECF No. 19). Judgment was entered the same date. (ECF No. 20).

Petitioner has filed a notice of appeal and a motion for a certificate of appealability. (ECF Nos. 21 & 22). 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 (9th Cir. 2006); *see also United States v. Mikels*, 236 F.3d 550, 551-52 (9th Cir. 2001). Generally, a 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

1 U.S. 473, 483-84 (2000). “The petitioner must demonstrate that reasonable jurists would find the
2 district court's assessment of the constitutional claims debatable or wrong.” *Id.* (quoting *Slack*, 529
3 U.S. at 484). In order to meet this threshold inquiry, the petitioner has the burden of demonstrating
4 that the issues are debatable among jurists of reason; that a court could resolve the issues differently;
5 or that the questions are adequate to deserve encouragement to proceed further. *Id.* No reasonable
6 jurist could conclude that this Court’s order dismissing this action without prejudice was erroneous.
7 Petitioner is not entitled to a certificate of appealability.

8 **IT IS THEREFORE ORDERED** that petitioner’s motion for a certificate of appealability
9 (ECF No. 22) is **DENIED**.

10 Dated: This 26th day of August, 2014.

11
12 
13 _____
14 UNITED STATES DISTRICT JUDGE
15
16
17
18
19
20
21
22
23
24
25
26