

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

JULIO JOSE LEON SANCHEZ,

Defendant.

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ORDER

08-cv-243-bbc

06-cr-88-jcs

On June 9, 2008, I denied defendant Julio Jose Leon Sanchez's motion for post-conviction relief brought pursuant to 28 U.S.C. § 2255. On August 7, 2008, defendant filed a notice of appeal from my decision. On August 12, 2008, I granted him leave to proceed on appeal in forma pauperis and issued a certificate of appealability.

On February 25, 2009, the court of appeals vacated the certificate of appealability that I had issued. The court of appeals stated in pertinent part:

This certificate does not comply with 28 U.S.C. § 2253(c) because it does not identify the issue for appeal or state why that issue satisfies the requirement of subsection (b)(2) that the appeal present a "substantial showing of the denial of a constitutional right."

The court then found that defendant was not entitled to a certificate of appealability because none of the arguments presented by defendant were substantial and dismissed his appeal. On April 1, 2009, the mandate from the court of appeals was entered in this court.

On April 24, 2009, defendant filed a motion for re-issuance of a certificate of appealability, dkt.#21, with an affidavit, dkt. #22. Defendant asks that I re-issue a certificate of appealability in compliance with 28 U.S.C. 2253(c)(3) and (b)(2). Unfortunately, defendant has misunderstood the court of appeals order. After vacating the certificate of appealability, the court of appeals found that defendant was not entitled to a certificate of appealability under the applicable statute and dismissed his appeal. Because defendant's certificate of appealability was denied by the court of appeals, I must deny his request for the re-issuance of a certificate of appealability.

#### ORDER

IT IS ORDERED that defendant Julio Jose Leon Sanchez's motion for re-issuance of a certificate of appealability, dkt. #21, is DENIED.

Entered this 19th day of June, 2009.

BY THE COURT:

/s/

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BARBARA B. CRABB  
District Judge

