

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

JUL 12 2018

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

CARLOS ESPARZA PONCE,

Petitioner-Appellant,

v.

D. BAUGHMAN, Warden,

Respondent-Appellee.

No. 18-55212

D.C. No. 2:16-cv-05834-JGB-MRW  
Central District of California,  
Los Angeles

ORDER

Before: HAWKINS and SILVERMAN, Circuit Judges.

The request for a certificate of appealability is denied because appellant has not made a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *see also Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

Any pending motions are denied as moot.

**DENIED.**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

CARLOS ESPARZA PONCE,  
Petitioner,  
v.  
D. BAUGHMAN, Warden,  
Respondent.

Case No. CV 16-5834 JGB (MRW)

## ORDER DENYING CERTIFICATE OF APPEALABILITY

Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts requires a district court to issue or deny a certificate of appealability when it enters a final order adverse to the applicant.

Under 28 U.S.C. § 2253(c)(2), a COA may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” The Supreme Court has held that this standard means showing that “reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to

1 deserve encouragement to proceed further.” Slack v. McDaniel, 529 U.S. 473,  
2 484 (2000) (internal quotation marks omitted). The COA inquiry is only a  
3 “threshold question” to determine whether a decision is “debatable.” It is made  
4 “without full consideration of the factual or legal bases adduced in support of the  
5 claims.” Buck v. Davis, \_\_\_ U.S. \_\_\_, 137 S. Ct. 759, 773-74 (2017) (quotation  
6 marks omitted).

7 Here, after duly considering Petitioner’s contentions in support of the  
8 claims alleged in the petition, the Court concludes that petitioner failed to make  
9 the requisite showing for the issuance of a Certificate of Appealability.

10 Accordingly, a Certificate of Appealability is denied in this case.

11  
12 DATE: January 7, 2018  
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15 HON. JESUS G. BERNAL  
16 UNITED STATES DISTRICT JUDGE  
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