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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA	)	
	)	
Plaintiff/Respondent,	)	
	)	
v.	)	Case No. 02-40131-01-JAR
	)	08-4114-JAR
	)	
DARRELL TRIPLETT,	)	
	)	
Defendant/Petitioner.	)	
<hr style="width: 40%; margin-left: 0;"/>	)	

**ORDER DENYING**  
**REQUEST FOR CERTIFICATE OF APPEALABILITY**

On February 1, 2010, the court issued a memorandum and order granting the government's motion to enforce the plea agreement and dismiss defendant's motion to vacate (Doc. No. 214). On February 23, 2010, defendant filed a motion for reconsideration or to alter or amend the judgment (Doc. 216), and a notice of appeal and request for certificate of appealability upon each of the issues raised in his motion (Doc. No. 217). By separate order this date, the court denied defendant's motion for reconsideration or to alter or amend judgment (Doc. 221). This case is now before the court upon defendant's request for a certificate of appealability.

Defendant's request is considered pursuant to 28 U.S.C. § 2253. Defendant is not entitled to a certificate of appealability unless he can make "a substantial showing of the

denial of a constitutional right.”<sup>1</sup> Defendant must show that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong” or, when a petition has been denied upon procedural grounds, show “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.”<sup>2</sup> Defendant does not have to demonstrate that he will succeed on appeal, but he must show something more than the absence of frivolity and the existence of good faith on his part.<sup>3</sup>

For the reasons detailed in the court’s February 1, 2010 memorandum and order, defendant cannot meet the burden of proof required for the issuance of a certificate of appealability. Therefore, defendant’s request (Doc. 217) shall be DENIED.

**IT IS SO ORDERED.**

**Dated: March 9, 2010**

**S/ Julie A. Robinson**  
**JULIE A. ROBINSON**  
**UNITED STATES DISTRICT JUDGE**

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<sup>1</sup>28 U.S.C. § 2253(c)(2).

<sup>2</sup>Slack v. McDaniel, 529 U.S. 473, 484 (2000).

<sup>3</sup>Miller-El v. Cockrell, 537 U.S. 322, 338 (2003)(interior quotations omitted).