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1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 CENTRAL DISTRICT OF CALIFORNIA 10 11 DAMICUS ALESER METOYER, ) NO. CV 12-3038-CAS (MAN) 12 Petitioner, ACCEPTING FINDINGS AND 13 v. ORDER: RECOMMENDATIONS OF UNITED STATES DANIEL PARAMO, WARDEN, MAGISTRATE JUDGE; AND DENYING 14 CERTIFICATE OF APPEALABILITY 15 Respondent. 16 17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition 18 for Writ of Habeas Corpus ("Petition"), all of the records herein, and 19 20 the Report and Recommendation of United States Magistrate Judge ("Report"). The time for filing Objections to the Report has passed, 21 and no Objections have been filed with the Court. Having completed its 22 23 review, the Court accepts the findings and recommendations set forth in 24 the Report. 25 26

IT IS ORDERED that: (1) Respondent's motion to dismiss the Petition is granted; and (2) Judgment shall be entered dismissing this action without prejudice.

In addition, pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, the Court has considered whether a certificate of appealability is warranted in this case. See 28 U.S.C. § 2253(c)(2); Slack v. McDaniel, 529 U.S. 473, 484-85, 120 S. Ct. 1595, 1604 (2000). The Court concludes that a certificate of appealability is unwarranted, and thus, a certificate of appealability is DENIED.

IT IS FURTHER ORDERED that the Clerk shall serve copies of this Order and the Judgment herein on the parties.

LET JUDGMENT BE ENTERED ACCORDINGLY.

DATED: October 1, 2012.

CHRISTINA A. SNYDER UNITED STATES DISTRICT JUDGE

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