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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JAIME BENAVENTE, Jr.,	)	1:08-cv-00085 JMD (HC)
	)	
Petitioner,	)	ORDER DENYING PETITIONER'S
	)	MOTION FOR CERTIFICATE OF
v.	)	APPEALABILITY
	)	[Doc. 53]
ANTHONY HEDGPETH,	)	
	)	
Respondent.	)	

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On May 26, 2010, this Court issued an order granting in part and denying in part the Petition for Writ of Habeas Corpus. (Order, ECF No. 47.) On that same day, Petitioner filed a motion for reconsideration and stay and abeyance. (Pet'r's Mot. Recons., ECF No. 49.) The Court denied the motion on July 19, 2010.

Petitioner filed the instant motion for certificate of appealability on August 23, 2010. (Pet'r's Notice of Appeal, ECF No. 53.) Petitioner asks the Court to grant a certificate of appealability as to ground two of his petition, which claims ineffective assistance of counsel.

In the May 26, 2010, order granting in part and denying in part the petition, the Court *sua sponte* declined to issue a certificate of appealability finding that "jurists of reason" could not disagree with the Court's denial of relief as to grounds two (ineffective assistance of counsel) and three (eighth amendment violation). Petitioner does not present any new evidence or argument in his latest motion. The Court finds that Petitioner has failed to make the required showing for a

1 certificate of appealability with regards to his claim of ineffective assistance of counsel. Thus,  
2 Petitioner's motion must be denied.

3 **ORDER**

4 Accordingly, IT IS HEREBY ORDERED that Petitioner's motion for certificate of  
5 appealability is DENIED.

6 IT IS SO ORDERED.

7 **Dated: September 8, 2010** /s/ John M. Dixon  
8 UNITED STATES MAGISTRATE JUDGE

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