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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KIMIKO RANSOME,

1:10-cv-02317-GSA-PC

Plaintiff,

vs.

ORDER DISREGARDING MOTION  
FOR CERTIFICATE OF APPEALABILITY  
(Doc. 19.)

C/O LONGERO, et al.,

Defendants.

\_\_\_\_\_ /

Kimiko Ransome (“plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On February 9, 2012, the Court dismissed this action based on Plaintiff’s failure to exhaust administrative remedies before filing suit. (Doc. 17.) On March 5, 2012, plaintiff filed a motion for a certificate of appealability pursuant to Rule 22 of the Federal Rules of Appellate Procedure. (Doc. 19.) On March 8, 2012, plaintiff filed a notice of appeal to the Court of Appeals for the Ninth Circuit . (Doc. 20.)

Rule 22 of the Federal Rules of Appellate Procedure requires that an applicant who files a notice of appeal *in a habeas proceeding* must obtain a certificate of appealability under 28 U.S.C. § 2253(c), or a statement why a certificate should not issue, from the district judge who rendered judgment in the action. Fed. R. App. P. 22(b) (emphasis added). Plaintiff requests a certificate of appealability for the notice of appeal she filed in this action. However, because plaintiff’s appeal

1 concerns a civil rights action under § 1983 and not a habeas proceeding, Rule 22 is not applicable.  
2 Therefore, Plaintiff's application for a certificate of appealability shall be disregarded. Plaintiff is  
3 advised that her appeal was processed and forwarded to the Ninth Circuit on March 8, 2012. (Doc.  
4 21.)

5 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion for a certificate  
6 of appealability, filed on March 5, 2012, is DISREGARDED.

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8 IT IS SO ORDERED.

9 Dated: March 9, 2012

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE

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