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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 JOSE A. HERRERA,

12 Petitioner,

13 v.

14 W. L. MONTGOMERY, Warden,

15 Respondent.
16

No. 1:16-cv-01112-LJO-JLT (HC)

**ORDER DENYING MOTION TO ISSUE
CERTIFICATE OF APPEALABILITY AS
MOOT**

[Doc. No. 30]

17 On February 24, 2017, the Court issued an order granting Respondent's motion to dismiss
18 and dismissing the petition for writ of habeas corpus. In addition, the Court declined to issue a
19 certificate of appealability. On March 30, 2017, Petitioner filed a notice of appeal and the appeal
20 was processed to the Ninth Circuit Court of Appeals on April 3, 2017.

21 On April 7, 2017, Petitioner filed a motion for certificate of appealability. Insofar as the
22 Court has already declined to issue a certificate of appealability, the motion is moot.

23 Accordingly, Petitioner's motion for certificate of appealability is DENIED.

24
25 IT IS SO ORDERED.

26 Dated: April 11, 2017

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE