

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE A. HERRERA,

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

Petitioner.

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

W. L. MONTGOMERY, Warden,

[Doc. No. 30]

## Respondent.

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

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

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

IT IS SO ORDERED.

Dated: April 11, 2017

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