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8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA

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12 RAUL GARZA,

13 Plaintiff,

14 v.

15 CALIFORNIA SENATORS,
16 CALIFORNIA HOUSE OF
17 REPRESENTATIVES and BARACK
18 OBAMA,

19 Defendants.

Case No. 1:17-cv-01388-LJO-BAM

**ORDER REGARDING PLAINTIFF'S
MOTION FOR CERTIFICATE OF
APPEALABILITY**

(Doc. No. 8)

20 Plaintiff Raul Garza ("Plaintiff"), a state prisoner appearing *pro se* and *in forma pauperis*,
21 filed this civil rights action on October 16, 2017, challenging the implementation of "Obamacare"
22 as threatening his First Amendment right to free speech. (Doc. No. 1.) On June 4, 2018, the Court
23 dismissed this action, with prejudice, due to Plaintiff's failure to state a cognizable claim. (Doc.
24 No. 6.) Judgment was entered on June 4, 2018. (Doc. No. 7.) On April 25, 2019, Plaintiff filed a
25 motion for certificate of appealability. (Doc. No. 8.)

26 The Federal Rules of Appellate Procedure require applicants in *habeas corpus* proceedings
27 to obtain a certificate of appealability before an appeal may be taken. Fed. R. App. P. 22(b); 28
28 U.S.C. § 2255. As this is a civil rights action and not a *habeas corpus* proceeding, this procedure

1 is not applicable here. *See id.* Accordingly, Plaintiff's motion for certificate of appealability (Doc.
2 No. 8) is hereby disregarded.

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4 IT IS SO ORDERED.

5 Dated: May 1, 2019

/s/ Barbara A. McAuliffe
6 UNITED STATES MAGISTRATE JUDGE
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