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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

MARIO ANTON LEE,

Petitioner,

v.

ANDRE MATEVOUSIAN,

Respondent.

Case No. 1:18-cv-00234-DAD-EPG-HC

ORDER DENYING PETITIONER'S  
MOTION FOR DESIGNATION OF  
RECORD ON APPEAL

(ECF No. 30)

Petitioner is a federal prisoner who proceeded *pro se* in a habeas corpus action. The Court dismissed the petition on November 19, 2018, and Petitioner filed a notice of appeal that has been processed to the Ninth Circuit. (ECF Nos. 21, 25, 28).

On January 2, 2019, the Court received the instant motion in which Petitioner requests this Court “issue an order designating the record on appeal pursuant to Federal Rule of Appellate Procedure Rule 10(b)(1).” (ECF No. 30 at 1). The record on appeal consists of the following items: “(1) the original papers and exhibits filed in the district court; (2) the transcript of the proceedings, *if any*; and (3) a certified copy of the docket entries prepared by the district clerk.” Fed. R. App. P. 10(a) (emphasis added). Rule 10(b) deals specifically with the transcript of proceedings, and Rule 10(b)(1) provides:

(1) Appellant’s Duty to Order. Within 14 days after filing the notice of appeal or entry of an order disposing of the last timely

1 remaining motion of a type specified in Rule 4(a)(4)(A), whichever  
2 is later, the appellant must do either of the following:

3 (A) order from the reporter a transcript of such parts of the  
4 proceedings not already on file as the appellant considers  
5 necessary, subject to a local rule of the court of appeals and  
6 with the following qualifications:

7 (i) the order must be in writing;

8 (ii) if the cost of the transcript is to be paid by the United  
9 States under the Criminal Justice Act, the order must so  
10 state; and

11 (iii) the appellant must, within the same period, file a copy  
12 of the order with the district clerk; or

13 (B) file a certificate stating that no transcript will be ordered.

14 Fed. R. App. P. 10(b)(1).

15 However, the instant case proceeded solely on the papers and there are no transcripts.  
16 Further, the Ninth Circuit can access the district court record electronically. See Ninth Circuit  
17 Rule 22-1(b). Accordingly, Petitioner's motion (ECF No. 30) is DENIED.

18 IT IS SO ORDERED.

19 Dated: March 14, 2019

20 /s/ Eric P. Grogan  
21 UNITED STATES MAGISTRATE JUDGE  
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