

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MANUEL BURRUEL, III,

Plaintiff,

v.

ROB BONTA,

Defendant.

Case No. 1:22-cv-00116-ADA-EPG (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR CERTIFICATE OF APPEALABILITY

(ECF No. 25)

Manuel Burruel, III ("Plaintiff"), is a civil detainee proceeding *pro se* and *in forma pauperis* with this action. On January 17, 2023, Plaintiff filed a notice of appeal of the order dismissing his case. (ECF No. 24). On that same day, Plaintiff filed a motion for a certificate of appealability. (ECF No. 25).

Plaintiff does not need to request a certificate of appealability in order to file an appeal of the dismissal of this action, which is not a habeas corpus proceeding.¹ Plaintiff has filed a notice of appeal (ECF No. 24), and his appeal has been processed to the United States Court of Appeals for the Ninth Circuit (ECF No. 26).

¹ "Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from-- (A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or (B) the final order in a proceeding under section 2255." 28 U.S.C. § 2253(c)(1)(A)-(B).

1 Accordingly, IT IS ORDERED that Plaintiff's motion for a certificate of appealability is
2 DENIED.

3 IT IS SO ORDERED.
4

5 Dated: January 19, 2023

/s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE