

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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).

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

IT IS SO ORDERED.

Dated: January 19, 2023

/s/ Eric P. Groj
UNITED STATES MAGISTRATE JUDGE