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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY CASTRO,
Petitioner,

No. 2:08-cv-02390-MCE-TJB

vs.

ORDER

M. MARTEL,
Respondent.

_____ /

Petitioner, a state prisoner proceeding pro se, has filed a motion for a certificate of appealability within his notice of appeal. *See* ECF No. 46. On November 23, 2010, the United States Magistrate Judge assigned to this matter filed an order, findings and recommendations herein, which was served on Petitioner, and which advised Petitioner that in any objections he elected to file, he may address whether a certificate of appealability should issue in the event he elected to file an appeal from the judgment in this case. *See* ECF No. 35. On January 21, 2011, Petitioner filed a motion to convert his petition into a civil rights complaint, a motion to appoint counsel, and a motion to proceed in forma pauperis. *See* ECF Nos. 38-40. On January 26, 2011, the Magistrate Judge denied both the motion to appoint counsel and the motion to proceed in forma pauperis. *See* ECF No. 41.


1 On February 11, 2011, the undersigned issued an order adopting the findings and
2 recommendations in full, terminating the motion to convert the petition, and declining to issue a
3 certificate of appealability. *See* ECF No. 42.

4 A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has
5 made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The
6 court must either issue a certificate of appealability indicating which issues satisfy the required
7 showing, or state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).

8 Petitioner’s request was previously addressed, and a certificate of appealability was not
9 issued. *See* ECF No. 42. Petitioner has presented no basis for reconsidering this decision. A
10 certificate of appealability shall not issue. Therefore, Petitioner’s March 3, 2011 motion for a
11 certificate of appealability (ECF No. 46) is DENIED.

12 IT IS SO ORDERED.

13 Dated: March 21, 2011

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16 MORRISON C. ENGLAND, JR.
17 UNITED STATES DISTRICT JUDGE
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