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

FRED WAYNE GILBERT,

No. CIV S-09-0209-MCE-CMK-P

Plaintiff,

vs.

ORDER

SUSAN HUBBARD, et al.,

Defendants.

_____/

Plaintiff, a state prisoner proceeding pro se, brought this civil rights action pursuant to 42 U.S.C. § 1983. Final judgment was entered on October 27, 2011, and plaintiff's notice of appeal has been processed to the Ninth Circuit Court of Appeals. Pending before the court is plaintiff's motion for a certificate of appealability (Doc. 82). Plaintiff's motion is denied because a certificate of appealability is unnecessary to appeal a final judgment in a § 1983 action.

IT IS SO ORDERED.

DATED: November 21, 2011



CRAIG M. KELLISON
UNITED STATES MAGISTRATE JUDGE