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

ROSE RAMIREZ TORRES,

No. CIV S-09-0531-MCE-CMK-P

Petitioner,

vs.

ORDER

JOHN HAVILLAND,

Respondent.

_____ /

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is petitioner’s request for a certificate of appealability (Doc. 25).¹

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court’s dismissal of his application for a writ of habeas corpus as untimely. Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the

¹ The court construes petitioner’s notice of appeal as a request for a certificate of appealability. Therefore, petitioner’s motion for an extension of time to file a request for a certificate of appealability is denied is unnecessary.

