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

PAUL SAMUEL JOHNSON

Petitioner,

No. CIV S-11-2719 CKD

vs.

GARY SWARTHOUT

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding pro se with an application for writ of habeas corpus under 28 U.S.C. § 2254. He has filed a motion for a certificate of appealability. A certificate of appealability can only issue after a court has entered its final order in a habeas corpus proceeding and only if the party seeking the certificate makes a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c). The motion is therefore premature.¹

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¹ The basis for the motion is vague. Petitioner claims that the judge in the Northern District of California who ordered this case transferred to the Eastern District of California mistakenly dismissed his case. It is not clear if petitioner is referring to another case to which he was a party in the Northern District. If petitioner is referring to the action for habeas relief that he originally filed in the Northern District and was assigned Civil Action No. 4:11-cv-04280, that case has been transferred to this court and assigned the case number in the caption above. It has not been dismissed.

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Accordingly, IT IS HEREBY ORDERED that:

1. The motion for a certificate of appealability (Docket No. 34) is denied without prejudice to its renewal at the appropriate time.
2. The Clerk of Court is directed to assign this case to a district judge.

Dated: April 4, 2012



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

³
john2719.ord.