## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEVIN L. PHELPS,	) No. C 98-2002 MMC (PR)
Petitioner,	ORDER DENYING REQUEST FOR LEAVE TO FILE MOTION
v.	) FOR RECONSIDERATION
DICK IIII I W1	) (CONSTRUED AS REQUEST ) FOR CERTIFICATE OF
RICK HILL, Warden,	) FOR CERTIFICATE OF ) APPEALABILITY)
Respondent.	) Alleadable (1)
	(Docket No. 126)

Petitioner is a California prisoner incarcerated at Folsom State Prison. On July 31, 2012, the Court denied his petition for a writ of habeas corpus and denied a certificate of appealability. On August 9, 2013, the Ninth Circuit denied petitioner's request for a certificate of appealability.

Recently, petitioner filed a request for leave to file a motion for reconsideration of the Court's December 7, 2011 order denying petitioner's motion to amend his petition. On August 19, 2013, the Court denied said request for leave.

Now before the Court is petitioner's "Motion Appealing the Order Denying Request for Leave to File Motion for Reconsideration," wherein petitioner "prays that this court grant right to appeal the said court decision." The Court construes petitioner's latest motion as a request for a certificate of appealability of the Court's August 19, 2013 order. So construed, the request is hereby DENIED on the ground that an appeal would be frivolous.

## United States District Court For the Northern District of California

Petitioner may not appeal the denial of a certificate of appealability in this Court but may seek a certificate from the Ninth Circuit under Rule 22 of the Federal Rules of Appellate Procedure. See Rule 11(a) of the Rules Governing Section 2254 Cases. This order terminates Docket No. 126. IT IS SO ORDERED. DATED: September 4, 2013