

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MIEKO LEGGETT,)	No. C 06-3260 MMC (PR)
)	
Petitioner,)	ORDER DENYING CERTIFICATE
)	OF APPEALABILITY; DENYING
v.)	MOTION FOR APPOINTMENT OF
)	COUNSEL; DENYING REQUEST TO
GLORIA HENRY, Warden)	PROCEED IN FORMA PAUPERIS
)	
Respondent.)	(Docket No. 29)
_____)	

On May 17, 2006, petitioner, a California prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On September 30, 2009, the Court denied the petition on the merits.

Petitioner has now filed a request for a certificate of appealability. Petitioner has not shown, however, “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right.” Slack v. McDaniel, 529 U.S. 473, 484 (2000).

Accordingly, the request for a certificate of appealability is hereby DENIED.

Additionally, petitioner has filed a motion for the appointment of counsel on appeal. There is no right to counsel in habeas corpus actions. See Knaubert v. Goldsmith, 791 F.2d 722, 728 (9th Cir. 1986). Pursuant to 18 U.S.C. § 3006A(a)(2)(B), however, a district court is authorized to appoint counsel to represent a habeas petitioner whenever “the court determines that the interests of justice so require” and such person is financially unable to

1 obtain representation. The decision to appoint counsel is within the discretion of the district
2 court, see Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986), and should be granted only
3 when exceptional circumstances are present. See generally 1 J. Liebman & R. Hertz, Federal
4 Habeas Corpus Practice and Procedure § 12.3b at 383–86 (2d ed. 1994). Here, petitioner has
5 not shown the existence of exceptional circumstances warranting appointment of counsel on
6 appeal.

7 Accordingly, petitioner’s motion for the appointment of counsel on appeal is hereby
8 DENIED.

9 Lastly, petitioner has filed an application to proceed in forma pauperis on appeal.
10 Having determined that petitioner has not shown valid grounds for appeal, the Court
11 concludes that granting leave to proceed in forma pauperis is not appropriate. See Fed. R.
12 App. P. 24(a)(3)(A).


13 Accordingly, the application to proceed in forma pauperis on appeal is hereby
14 DENIED.

15 The Clerk shall forward this order, along with the case file, to the United States Court
16 of Appeals for the Ninth Circuit, from which petitioner may seek both a certificate of
17 appealability pursuant to Federal Rule of Appellate Procedure 22(b)(1), and an order
18 affording petitioner leave to proceed in forma pauperis pursuant to Federal Rule of Appellate
19 Procedure 24(a)(5).

20 This order terminates Docket No. 29.

21 **IT IS SO ORDERED.**

22 DATED: January 5, 2010

23 
24 MAXINE M. CHESNEY
25 United States District Judge
26
27
28