

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
NORTHERN DISTRICT OF CALIFORNIA

JOHN SEARS,

No. C 07-02129 MHP

Petitioner,

ORDER

v.

UNITED STATES OF AMERICA,

Respondent.

Pro se petitioner John Sears pled guilty to counts of Possession of Cocaine for Sale and Possession of Cocaine Base for Sale, in violation of 21 U.S.C. section 841(a)(1), on October 16, 2003. Sears filed a petition for a writ of habeas corpus on April 17, 2007. He now requests a certificate of appealability (“COA”) so that he may appeal this court’s May 6, 2009, order dismissing the petition as moot. He argues that the petition is not moot insofar as it challenges his conviction. Petitioner’s arguments are well taken. Although no longer incarcerated, he is on supervised release. Moreover, there is a possibility that his conviction carries collateral consequences, e.g., restrictions on voting and firearms possession. See Chacon v. Wood, 36 F.3d 1459, 1463 (9th Cir. 1994).

Rather than grant the motion for a COA, which would unnecessarily delay the progress of the action, the court DENIES the motion and RESCINDS its order of May 6, 2009.

IT IS SO ORDERED.

Dated: June 19, 2009



MARILYN HALL PATEL
United States District Court Judge
Northern District of California