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

JULIO MELENDEZ, AA-7292,)	
)	
Petitioner,)	No. C 12-0386 CRB (PR)
)	
vs.)	(9th Cir. No. 14-15453)
)	
A. HEDGPETH, Warden,)	ORDER DENYING
)	CERTIFICATE OF
Respondent.)	APPEALABILITY
_____)	

On April 17, 2013, the court denied Julio Melendez’s petition for a writ of habeas corpus under 28 U.S.C. § 2254 on the merits, denied a certificate of appealability (COA) as to any of the claims and entered judgment in favor of respondent. Docket #12 & 13.

On June 19, 2013, Melendez filed a motion for relief from judgment on the ground that the court denied his petition before he had an opportunity to prepare and file a traverse. The court denied the motion without prejudice to renewing if accompanied by a traverse. Docket #16.

On December 23, 2013, Melendez filed a second motion for relief from judgment accompanied by a traverse. The court denied the motion because “nothing in it, or in the attached traverse, compel a different conclusion than that reached by the court in its April 17, 2013 order denying the petition for a writ of habeas corpus and denying a certificate of appealability.” Docket #19 at 1. Melendez appealed.


1 On March 13, 2014, the Ninth Circuit construed Melendez’s appeal as
2 arising from the denial of his motion for relief from judgment and remanded the
3 matter to this court for the limited purpose of granting or denying a COA on the
4 denial of Melendez’s motion for relief from judgment.

5 A COA is DENIED because Melendez has not made “a substantial
6 showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2).
7 Melendez has not demonstrated that “jurists of reason would find it debatable
8 whether the petition states a valid claim of the denial of a constitutional right and
9 that jurists of reason would find it debatable whether the district court was correct
10 in its procedural ruling.” Slack v. McDaniel, 529 U.S. 473, 484 (2000).

11 The clerk shall forward to the Ninth Circuit the case file with this order.
12 See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

13 SO ORDERED.

14 DATED: March 24, 2014



CHARLES R. BREYER
United States District Judge