

1 IN THE UNITED STATES DISTRICT COURT
 2
 3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 4

5 RUBEN GOMEZ,

No. C 06-04561 SBA (PR)

6 Petitioner,

**ORDER DENYING REQUEST FOR
 CERTIFICATE OF APPEALABILITY AS
 UNNECESSARY; GRANTING REQUEST
 TO PROCEED IN FORMA PAUPERIS
 ON APPEAL**

7 v.

8 ROBERT L. AYERS,

9 Respondent.
 _____/

10 Petitioner has filed a notice of appeal and a request for a certificate of appealability following
 11 this Court's denial of his habeas petition challenging as a violation of his constitutional rights
 12 Governor Arnold Schwarzenegger's reversal of the finding of parole suitability by the California
 13 Board of Parole Hearings (Board).¹ He also moves for leave to proceed in forma pauperis on appeal.
 14

15 Petitioner's request for a certificate of appealability is DENIED as unnecessary. The Ninth
 16 Circuit recently made clear that a state prisoner challenging the administrative decision by the Board
 17 to deny his request for parole need not obtain a certificate of appealability. See Rosas v. Nielsen,
 18 428 F.3d 1229, 1232 (9th Cir. 2005).

19 Good cause appearing, Petitioner's request for leave to proceed in forma pauperis on appeal
 20 is GRANTED.

21 The Clerk of the Court shall process the notice of appeal.

22 IT IS SO ORDERED.

23 DATED: 9/9/08

Saundra B. Armstrong
 SAUNDRA BROWN ARMSTRONG
 United States District Judge

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 28 ¹ The Board of Prison Terms was abolished effective July 1, 2005, and replaced with the Board
 of Parole Hearings. Cal. Penal Code § 5075(a).

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

RUBEN GOMEZ,

Plaintiff,

v.

ROBERT L. AYERS et al,

Defendant.

Case Number: CV06-04561 SBA

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 10, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Ruben C. Gomez
CDC C-93886
San Quentin State Prison
San Quentin, CA 94974

Dated: September 10, 2008

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk