

United States District Court
For the Northern District of California

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

JOSEPH HORNE,

Plaintiff,

v.

J. C. RUTLEDGE, et al.,

Defendants.

No. C 08-01387 SBA (PR)

**ORDER DENYING MOTION FOR
CERTIFICATE OF APPEALABILITY AS
UNNECESSARY**

In this pro se civil rights action, Plaintiff filed a Motion for a Certificate of Appealability ("COA") and a Notice of Appeal. However, a COA, formerly known as a certificate of probable cause to appeal, is only required in a habeas corpus proceeding. See 28 U.S.C. § 2253(c). Therefore, Plaintiff's request for a COA is DENIED as unnecessary.

This Order terminates Docket no. 18.

IT IS SO ORDERED.

DATED: 10/27/09


SAUNDRA BROWN ARMSTRONG
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH HORNE,
Plaintiff,

Case Number: CV08-01387 SBA

CERTIFICATE OF SERVICE

v.

J.C. RUTLEDGE et al,
Defendant.

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 October 28, 2009, 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.

Joseph Deonn Horne V84328
Kern Valley State Prison
P.O. Box 5102
Delano, CA 93216

Dated: October 28, 2009

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