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

7 JESSE CLYDE BURLESON,

No. C 08-01853 SBA (PR)

8 Petitioner,

9 v.

10 CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION,

**ORDER GRANTING IN FORMA
PAUPERIS STATUS; GRANTING
PETITIONER'S REQUEST FOR A
CERTIFICATE OF APPEALABILITY;
AND TERMINATING REMAINING
PENDING MOTIONS AS MOOT**

11 Respondent.

(Docket nos. 17, 20, 22)

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13 Petitioner, a state prisoner, has filed a notice of appeal of this Court's judgment dismissing as
14 time-barred his petition for a writ of habeas corpus under 28 U.S.C. § 2254. Petitioner also seeks a
15 certificate of appealability (COA) pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate
16 Procedure 22(b). He has also filed an application to proceed in forma pauperis (IFP) on appeal
17 (docket no. 22).¹

18 Because reasonable jurists could disagree with this Court's conclusion that Petitioner's
19 application is time-barred, Petitioner's request for a COA is GRANTED. See, e.g., Thomas v.
20 Greiner, 174 F.3d 260, 261 (2d Cir. 1999) (district court may grant certificate of appealability under
21 28 U.S.C. § 2253(c) on whether habeas petition is time-barred).

22 For the foregoing reasons, the Court GRANTS Petitioner's request for a COA (docket no.
23 17). Petitioner's application to proceed IFP on appeal (docket no. 22) is GRANTED.

24 The Clerk of the Court shall forward to the Ninth Circuit Court of Appeals the case file with
25 this Order. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997). All remaining pending
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28 ¹ Petitioner previously filed a motion for an extension of time to file his application to
proceed IFP on appeal (docket no. 20). Because Petitioner has since filed his application to proceed
IFP appeal (docket no. 17), his motion for an extension of time is DENIED as moot.


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motions, including his motion for an extension of time to file his application to proceed IFP on appeal (docket no. 20), are terminated as moot.

This Order terminates Docket nos. 17, 20 and 22.

IT IS SO ORDERED.

DATED: 3/2/10


SAUNDRA BROWN ARMSTRONG
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JESSE CLYDE BURLESON,

Plaintiff,

v.

DIRECTOR CA DEPT OF CORRECTIONS et
al,

Defendant.

Case Number: CV08-01853 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 March 4, 2010, 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.

Jesse Clyde Burleson D-90284
Mule Creek State Prison
P.O. Box 409020
Ione, CA 95640

Dated: March 4, 2010

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