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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

BENJAMIN HERNANDEZ,
Petitioner,

No. C 08-1979 PJH (PR)

vs.
B. CURRY, Warden,

**ORDER DENYING LEAVE TO
PROCEED IN FORMA
PAUPERIS ON APPEAL**

Respondent.

This is a habeas case filed pro se by a state prisoner. The petition was directed to a denial of parole. The court denied the petition on the merits and denied a certificate of appealability. Petitioner has asked the Ninth Circuit to grant a COA; that court has not yet ruled on the motion. Petitioner cannot appeal unless a COA is issued. The motion for leave to proceed IFP on appeal therefore is **DENIED** as moot. Petitioner may renew the motion in the court of appeals if that court issues a COA.

IT IS SO ORDERED.

Dated: March 7, 2011.



PHYLLIS J. HAMILTON
United States District Judge