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United States District Court
For the Northern District of California

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

LARRY M. JOHNSON,)	No. C 06-06958 JW (PR)
)	
Petitioner,)	ORDER DENYING MOTION FOR
)	CERTIFICATE OF APPEALABILITY;
vs.)	DENYING REQUEST TO PROCEED
)	<i>IN FORMA PAUPERIS</i> ON APPEAL;
ANTHONY KANE, Warden,)	DENYING MOTION FOR
)	APPOINTMENT OF COUNSEL
Respondent.)	
)	
_____)	(Docket No. 18)

Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the California Board of Prison Terms’ denial of parole. On October 2, 2009, the Court denied the instant petition on the merits and entered judgment in favor of Respondent. On October 23, 2009, Petitioner filed a notice of appeal. Petitioner also filed a request for a certificate of appealability, a request to proceed in forma pauperis on appeal, and a motion for appointment of counsel. (Docket No. 18.)

Petitioner’s motion for a certificate of appealability is DENIED as moot because it is not required in the instant case. See Rosas v. Nielsen, 428 F.3d 1229, 1232 (9th Cir. 2005) (a state prisoner challenging the Board of Prison Terms’ administrative decision to deny his request for parole does not need to obtain a

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certificate of appealability).

Petitioner was not granted pauper status in the instant action as he paid the full filing fee. Accordingly, Petitioner's motion for leave to proceed in forma pauperis on appeal is DENIED to bringing it directly in the Ninth Circuit for an independent review of the record to determine whether the appeal is frivolous. Petitioner's motion for appointment counsel is DENIED to bringing it directly in the Ninth Circuit.

The Clerk shall transmit the file, including a copy of this order, to the Court of Appeals.

DATED: December 23, 2009



JAMES WARE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

LARRY JOHNSON,

Petitioner,

v.

ANTHONY KANE, Warden,

Respondent.

Case Number: CV06-06958 JW

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 1/15/2010, 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.

Larry M. Johnson C77494
CSP Solano
P. O. Box 4000
Vacaville, Ca 95696-4000

Dated: 1/15/2010

Richard W. Wieking, Clerk
/s/By: Elizabeth Garcia, Deputy Clerk