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NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PAUL A. REDD, JR.,
Petitioner,
vs.
RICHARD KIRKLAND, Warden,
Respondent.

No. C 06-07566 JF (PR)
ORDER DENYING REQUEST
FOR CERTIFICATE OF
APPEALABILITY;
ADDRESSING OTHER
PENDING MOTIONS
(Docket Nos. 11, 12 & 13)

On July 10, 2008, the Court granted Respondent’s motion to dismiss this pro se petition for a writ of habeas corpus and entered judgment. On August 4, 2008, Petitioner filed a motion for a certificate of appealability. (Docket No. 11.) Petitioner also filed a motion for leave to appeal in forma pauperis (Docket No. 12) and a motion for appointment of counsel (Docket No. 13).

A petitioner may not appeal a final order in a federal habeas corpus proceeding without first obtaining a certificate of appealability (formerly known as a certificate of probable cause to appeal). See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A judge shall grant a certificate of appealability “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The certificate must

1 indicate which issues satisfy this standard. See id. § 2253(c)(3).

2 “Where a district court has rejected the constitutional claims on the merits, the
3 showing required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate
4 that reasonable jurists would find the district court’s assessment of the constitutional
5 claims debatable or wrong.” Slack v. McDaniel, 529 U.S. 473, 484 (2000). The Court
6 denied the instant habeas petition after careful consideration of the merits. The Court
7 found no violation of Petitioner’s federal constitutional rights in the underlying state court
8 proceedings. Petitioner has failed to demonstrate that jurists of reason would find it
9 debatable whether this Court was correct in its ruling. Accordingly, Petitioner’s request
10 for a certificate of appealability (Docket No. 11) is DENIED.

11 Petitioner did no seek pauper status in the instant action having paid the full filing
12 fee. Accordingly, Petitioner’s motion for leave to proceed in forma pauperis on appeal
13 (Docket No. 12) is DENIED to bringing it directly in the Ninth Circuit for an independent
14 review of the record to determine whether the appeal is frivolous. The request for
15 appointment of counsel on appeal (Docket No. 13) is also DENIED without prejudice to
16 bringing it directly in the Ninth Circuit.

17 The clerk shall forward to the court of appeals the case file with this order. See
18 Fed. R. App. P. 22(b).

19 This order terminates Docket Nos. 11, 12 and 13.

20 IT IS SO ORDERED.

21 DATED: 11/5/08
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25 JEREMY FOGEL
26 United States District Judge
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