

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

\*E-FILED - 3/18/09\*

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ISAAC NICHOLAS,	)	No. C 08-4082 RMW (PR)
	)	
Petitioner,	)	ORDER DENYING CERTIFICATE
	)	OF APPEALABILITY
vs.	)	
	)	
DEPARTMENT OF CORRECTIONS, et	)	
al.,	)	
	)	(Docket No. 14)
Respondents.	)	

Petitioner, a California prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, seeking enforcement of an injunction order from a separate case, and challenging (1) his out-of-state transfer while he suffers from a serious medical condition and (2) medical staff’s deliberate indifference to his serious medical needs. The court noted that petitioner’s claims were more appropriately addressed in a civil rights complaint pursuant to 42 U.S.C. § 1983 and dismissed the petition because it did not challenge the duration or legality of his confinement or sentence under § 2254. Petitioner has filed a motion for a certificate of appealability. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

Upon the filing of a notice of appeal and a request for a certificate of appealability (COA), the district court shall indicate which specific issue or issues satisfy the standard for

1 issuing a certificate, or state its reasons why a certificate should not be granted. See United  
2 States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997) (citing 28 U.S.C. § 2253(c)(3)).

3 The court concludes that petitioner has not shown “that jurists of reason would find it  
4 debatable whether the petition states a valid claim of the denial of a constitutional right and that  
5 jurists of reason would find it debatable whether the district court was correct in its procedural  
6 ruling.” Slack v. McDaniel, 529 U.S. 473, 484 (2000). Accordingly, petitioner’s request for a  
7 certificate of appealability is DENIED.

8 The clerk shall serve notice of this order forthwith to the United States Court of Appeal  
9 and to the parties. See Fed. R. App. P. 24(a).

10 This order terminates docket no. 14.

11 IT IS SO ORDERED.

12 DATED: 3/16/09



RONALD M. WHYTE  
United States District Judge