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E-FILED - 1/31/11

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

MARTIN D. ROYAL,

No. C 08-5628 RMW (PR)

Petitioner,

ORDER DENYING APPLICATION TO
PROCEED IN FORMA PAUPERIS ON
APPEAL

v.

M. MARTEL, Warden,

Respondent.

/ (Docket No. 33)

Petitioner, a state prisoner proceeding pro se, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On October 5, 2010, the court denied the petition, entered judgment in favor of respondent, and declined to issue a certificate of appealability. Petitioner has filed a notice of appeal and a motion to waive filing fees on appeal. The court construes plaintiff's motion as an application to proceed IFP on appeal.

Because the court declined to issue a certificate of appealability in the order denying the petition, petitioner's request to proceed IFP on appeal (docket no. 32) is also DENIED. When the court declined to issue a certificate of appealability in the order denying the petition, it determined that there were no valid grounds for an appeal. Accordingly, granting the petitioner's application to proceed IFP on appeal would not be appropriate.

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This order terminates docket no. 32.

IT IS SO ORDERED.

DATED: 1/28/11

Ronald M. Whyte
RONALD M. WHYTE
United States District Judge