

E-FILED - 11/10/09

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

KELVIN HOUSTON,)	No. C 09-3743 RMW (PR)
)	
Plaintiff,)	ORDER DENYING PETITION FOR
)	ISSUANCE OF CERTIFICATE OF
vs.)	PROBABLE CAUSE AS
)	UNNECESSARY
SUPREME COURT OF)	
CALIFORNIA, et al.,)	
)	
Defendants.)	

Plaintiff is a prisoner of the State of California who is incarcerated in Vacaville, California. On August 17, 2009, he filed a pro se petition for a writ of mandamus, seeking an order compelling the Superior Court of California to comply with due process and release him. On September 30, 2009, the court dismissed the action for failure to state a claim.

On October 13, 2009, plaintiff filed a petition for issuance of certificate of probable cause. 28 U.S.C. § 2253. Because no certificate of probable cause nor certificate of appealability is required for plaintiff to appeal the denial of his writ of mandamus, the court DENIES the motion as unnecessary. Plaintiff's appeal was docketed on October 20, 2009, and is proceeding in appellate court.

IT IS SO ORDERED.

DATED: 11/6/09


RONALD M. WHYTE
United States District Judge