

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

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

SCOTT E. FELIX,	)	No. C 10-2823 LHK (PR)
	)	
Petitioner,	)	ORDER DENYING
	)	CERTIFICATE OF
v.	)	APPEALABILITY
	)	
DR. S. MAYBERG, et al.,	)	
	)	
Respondents.	)	

---

Petitioner, proceeding *pro se*, filed a habeas corpus petition challenging his civil commitment, pursuant to 28 U.S.C. § 2254. On August 17, 2010, the Court dismissed this action without prejudice and entered judgment for failing to file a completed in forma pauperis application or pay the filing fee within thirty days of the notification to do so. Petitioner filed a timely notice of appeal.

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 issuing a certificate, or state its reasons why a certificate should not be granted. *See United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997) (citing 28 U.S.C. § 2253(c)(3)). Although Petitioner did not file a separate request for a COA, the Court construes his notice of appeal as such. *See Asrar*, 116 F.3d at 1270.

1           Petitioner has not shown “that jurists of reason would find it debatable whether the  
2 petition states a valid claim of the denial of a constitutional right [or] that jurists of reason would  
3 find it debatable whether the district court was correct in its procedural ruling.” *Slack v.*  
4 *McDaniel*, 529 U.S. 473, 484 (2000). Accordingly, a certificate of appealability is DENIED.

5           The Clerk shall serve notice of this order forthwith to the United States Court of Appeal  
6 and to the parties. *See* Fed. R. App. P. 24(a).

7           IT IS SO ORDERED.

8 DATED: 1/11/11

  
\_\_\_\_\_  
LUCY H. KOH  
United States District Judge