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

10 ARTEMIO GONZALES, ) No. C 11-3235 RMW (PR)  
11 )  
12 Petitioner, ) ORDER DENYING REQUEST FOR  
13 ) EVIDENTIARY HEARING  
14 v. )  
15 GEORGE LEOTTI, Warden, )  
Respondent. )

16 On June 27, 2011, petitioner, a state prisoner proceeding pro se, filed a writ of habeas  
17 corpus challenging a criminal conviction and judgment pursuant to 28 U.S.C. § 2254. (Docket  
18 No. 1.) Respondent filed an answer on January 4, 2013. (Docket No. 19.) The matter was  
19 submitted to the court on February 4, 2013, when petitioner failed to file a traverse. Petitioner  
20 has filed a letter requesting an evidentiary hearing. (Docket No. 32.)

21 An evidentiary hearing is held in federal habeas cases only under the most limited  
22 circumstances. See Baja v. Ducharme, 187 F.3d 1075, 1077-79 (9th Cir. 1999). Here, there is  
23 no indication that an evidentiary hearing is required under 28 U.S.C. § 2254(e). Petitioner's  
24 claims do not appear to rely upon extra-record evidence and a factual basis exists in the record to  
25 determine the claims. Upon review of the merits of the petition, if the court determines that  
26 further fact finding is required, the court will consider whether an evidentiary hearing is  
27 necessary. Accordingly, petitioner's motion for an evidentiary hearing is **DENIED** without  
28 prejudice.

1 IT IS SO ORDERED.

2 DATED: \_\_\_\_\_

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RONALD M. WHYTE  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

GONZALES et al,

Plaintiff,

v.

LEOTTI et al,

Defendant.

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Case Number: CV11-03235 RMW

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 3, 2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Artemio Gonzales F37380  
Department of Corrections and Rehabilitation  
Q3-310  
PO Box 2000  
1600 California Drive  
Vacaville, CA 95696

Dated: February 3, 2014

Richard W. Wieking, Clerk  
By: Jackie Lynn Garcia, Deputy Clerk