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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

GRADY HARRIS,  
  
vs.  
  
R.K. WONG, Warden,  
  
Petitioner,  
  
Respondent.

CASE NO. 06-CV-1747-JLS (JMA)  
  
**ORDER DENYING AS MOOT  
MOTION FOR LEAVE TO  
APPEAL IFP**  
  
(Doc. No. 70.)

Petitioner Grady Harris, on August 28, 2006, filed the present petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Doc. No. 1.) On May 20, 2008, Magistrate Judge Jan M. Adler appointed Petitioner counsel to represent him in the matter. (Doc. No. 44.) Thereafter, Petitioner, through his counsel, filed a First Amended Petition. (Doc. No. 52.) On August 19, 2009, pursuant to 28 U.S.C. § 636(b)(1), Magistrate Judge Adler issued a Report and Recommendation (“R&R”) advising that the Court deny the petition. (Doc. No. 66.) On February 10, 2010, the Court adopted Magistrate Judge Adler’s recommendation. (Doc. No. 67.) On February 22, 2010, Petitioner filed a notice of appeal (Doc. No. 69) and a motion for leave to appeal in forma pauperis. (Doc. No. 23.)

A certificate of appealability is authorized “if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve

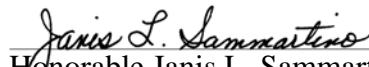
1 encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003); *see also Slack*  
2 *v. McDaniel*, 529 U.S. 473, 484 (2000). The Court must either (1) grant the certificate of appealability  
3 indicating which issues satisfy the required showing or (2) state why a certificate should not issue.  
4 Fed. R. App. P. 22(b).

5 The petition raised several legal issues, none of which merit a certificate of appealability. The  
6 Court finds that reasonable jurists would agree that the California Court of Appeal’s conclusions were  
7 neither contrary to nor an unreasonable application of clearly established federal law. Accordingly,  
8 no certificate of appealability should issue in this case.

9 Further, Petitioner’s motion for leave to appeal in forma pauperis is **DENIED AS MOOT**.  
10 Petitioner has been appointed counsel in the matter, and therefore has established CJA status,  
11 exempting Petitioner from paying the docket fee upon filing the notice of appeal pursuant to Ninth  
12 Circuit Rule 3-1 and FRAP 24. Accordingly, no filing fee is required.

13 IT IS SO ORDERED.

14  
15 DATED: March 3, 2010

16   
17 Honorable Janis L. Sammartino  
18 United States District Judge  
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