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

CHAD THOMAS ELIE,

Petitioner,

vs.

KELLY HARRINGTON, Warden, and
EDMUND BROWN, JR., Attorney
General of the State of California,

Respondents.

CASE NO. 09-CV-2920-H (PCL)

ORDER

**(1) DENYING MOTION FOR
CERTIFICATE OF
APPEALABILITY; &

(2) DENYING MOTION TO
PROCEED IN FORMA
PAUPERIS ON APPEAL**

On June 9, 2011, the Court issued an order denying Petitioner Chad Thomas Elie’s petition for writ of habeas corpus. (Doc. No. 28.) The Court also denied a certificate of appealability. (Id.) On June 27, 2011, Petitioner, proceeding pro se, filed a motion for extension of time to file a notice of appeal, request a certificate of appealability, and a motion to proceed in forma pauperis. (Doc. No. 30.) On June 30, 2011, the Court granted Petitioner’s motion for extension to file notice of appeal and other related motions. (Doc. No. 31.) On September 15, 2011, Petitioner filed a notice of appeal (Doc. No. 32) along with a motion to proceed in forma pauperis on appeal (Doc. No. 33) and a motion for certificate of appealability from district court. (Doc. No. 35.)

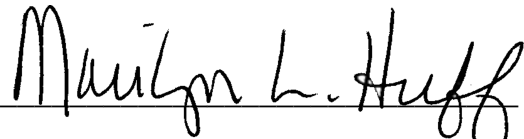
According to the Federal Rules of Appellate Procedure, a petitioner may not seek an

1 appeal of a claim arising out of state court detention unless the petitioner obtains a certificate
2 of appealability from either the district judge or a circuit judge under 28 U.S.C. § 2253. See
3 Fed. R. App. P. 22(b). Section 2253 states that a certificate of appealability may only issue if
4 the petitioner makes a “substantial showing of the denial of a constitutional right.” 28 U.S.C.
5 § 2253(c)(1). Where, as here, the district court has rejected the petitioner’s constitutional
6 claims on the merits, “[t]he petitioner must demonstrate that reasonable jurists would find the
7 district court’s assessment of the constitutional claims debatable or wrong.” Slack v.
8 McDaniel, 529 U.S. 473, 483-84 (2000).

9 The Court previously denied a certificate of appealability. (See Doc. No. 28.) The
10 Court will alternatively consider Petitioner’s current motion as a motion for reconsideration
11 of that denial. The Court has carefully reviewed Petitioner’s original petition, this motion, and
12 other related papers. From that careful review, the Court sees no good grounds for issuing a
13 certificate of appealability in light of the controlling legal standards. Because Petitioner has
14 not made a “substantial showing of a denial of a constitutional right,” Slack, 529 U.S. at 483-
15 84, the Court declines to issue a certificate of appealability. Because the Court denies
16 Petitioner’s request for a certificate of appealability, the Court denies as moot Peitioner’s
17 motion to proceed in forma pauperis on appeal.

18 **IT IS SO ORDERED.**

19 DATED: September 20, 2011

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21 MARILYN L. HUFF, District Judge
22 UNITED STATES DISTRICT COURT
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