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

MORRIS MESTER, CDCR #C-77174,

Plaintiff,

vs.

PARAMO, Warden; KELSO,  
Receiver; DR. SEELEY, CEO; DR.  
WALKER, CME; DR. CASIAN,  
M.D.; DR. NEWTON, M.D.; Dr.  
CHOKATOS; M.D.; LACURON,  
R.N.; BROWN, Sergeant; HURM,  
Correctional Officer; DR. GHAUSI,  
M.D.; DR. GLAZENER, M.D.,

Defendants.

CASE NO. 3:13-CV-0064-H  
(NLS)

**ORDER DENYING AS MOOT  
REQUEST FOR  
CERTIFICATE OF  
APPEALABILITY**

On January 8, 2013, Morris Mester (“Plaintiff”), a state inmate proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983, along with a motion to proceed in forma pauperis (“IFP”). (Doc. No. 1.) On January 18, 2013, the Court granted Plaintiff’s motion to proceed IFP but sua sponte dismissed his complaint, with leave to amend, for failing to state a claim pursuant to 28 U.S.C. §§ 1915(e)(2)(B) & 1915A(b). (Doc. No. 6 at 9-10.) Plaintiff subsequently filed a motion for reconsideration, a motion to appoint counsel, and a motion to relate back. (Doc. Nos. 12, 15, 17.) On March 8, 2013, the Court denied these motions but granted Plaintiff


1 an additional 60 days leave to file an amended complaint. (Doc. No. 18.) Rather than  
2 file an amended complaint, Plaintiff now appeals the Court's Orders and, on March 25,  
3 2013, Plaintiff filed a request for a certificate of appealability pursuant to 28 U.S.C. §  
4 2253. (Doc. No. 20.)

5 Plaintiff does not need a certificate of appealability to pursue his appeal. The  
6 requirement for a certificate of appealability only applies to claims for habeas corpus  
7 relief arising under 28 U.S.C. § 2254 or § 2255. See Fed. R. App. P. 22(b); see also  
8 Lino v. Small, No. 09-CV-1834, 2012 WL 5506072, at \*1 (S.D. Cal. Nov. 13, 2012);  
9 Dalluge v. U.S. Dep't of Justice, No. C11-5037, 2011 WL 1675407, at \*1 (W.D. Wash.  
10 May 4, 2011) ("As this case was brought pursuant to 42 U.S.C. § 1983, there is no  
11 requirement for a certificate of appealability."); Jenkins v. Caplan, No. C 02-5603,  
12 2010 WL 3057410, at \*1 (N.D. Cal. Aug. 2, 2010) ("[A] Certificate of Appealability  
13 is inapplicable to a § 1983 action.").

14 Accordingly, the Court denies as moot Plaintiff's request for a certificate of  
15 appealability.

16 **IT IS SO ORDERED.**

17 DATED: March 28, 2013

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