

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 27 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In re: ANDRE RENE SCOTT.

ANDRE RENE SCOTT,

Petitioner,

v.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
CALIFORNIA, SACRAMENTO,

Respondent,

STUART SHERMAN, Warden,

Real Party in Interest.

No. 18-70898

D.C. No.

2:17-cv-02444-TLN-GGH

Eastern District of California,
Sacramento

ORDER

Before: CANBY, WARDLAW, and RAWLINSON; Circuit Judges.

Petitioner has not demonstrated that this case warrants the intervention of this court by means of the extraordinary remedy of mandamus. *See Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977). Accordingly, the petition is denied.

All other pending motions are denied as moot.

The petition for a writ of mandamus manifests an intent to appeal from the district court's March 14, 2018 order in district court case No. 2:17-cv-02444-TLN-GGH. Accordingly, the petition is construed as a notice of appeal. *See In re*

Sweet Transfer & Storage Inc., 896 F.2d 1189, 1193-94 (9th Cir. 1990) (stating document not formally denominated notice of appeal may be treated as one if it clearly evinces the intent to appeal and provides notice to both opposing party and court).

The Clerk shall transfer the petition to the clerk of the district court of the Eastern District of California for docketing as a notice of appeal. The notice of appeal shall be deemed filed in the district court on March 25, 2018. *See* Fed. R. App. P. 4(c)(1),(d).

Upon transmittal of the petition to the district court, the Clerk shall close this original action.

No further filings will be entertained in this closed case.

DENIED.

UNITED STATES COURT OF APPEALS

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AUG 30 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ANDRE RENE SCOTT,

Petitioner-Appellant,

v.

STUART SHERMAN, Warden,

Respondent-Appellee.

No. 18-16388

D.C. No.

2:17-cv-02444-TLN-GGH

Eastern District of California,
Sacramento

ORDER

Before: FARRIS and LEAVY, Circuit Judges.

The request for a certificate of appealability is denied. Appellant has not shown that “jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.”

Slack v. McDaniel, 529 U.S. 473, 484 (2000); *see also* 28 U.S.C. § 2253(c)(2);

Gonzalez v. Thaler, 565 U.S. 134, 140-41 (2012).

Any pending motions are denied as moot.

DENIED.