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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEITH D. JOHNSON,
Petitioner,

No. 2:06-cv-00554-MCE-CHS P

vs.

ORDER

J. YATES, et al.,
Respondents.

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On February 28, 2006, petitioner Keith Johnson, a state prisoner proceeding pro se, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §2254. Petitioner challenged the judgement of conviction and sentence entered against him in the Sacramento County Superior Court, case 01F07872, raising various grounds for relief. On September 30, 2009, the petition was denied and judgment was entered in this case.

Subsequently, petitioner filed in the Ninth Circuit Court of Appeals an original petition for writ of habeas corpus, which was received on October 26, 2009. On January 14, 2010, it was ordered that the original petition filed in the Ninth Circuit be transferred to this court, and thereafter, on May 10, 2010, the petition was filed in this case.

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1 On May 26, 2010, the United States Magistrate Judge assigned to this case issued
2 findings and recommendations recommending that the petition filed on May 10, 2010 be
3 construed as a notice of appeal with respect to the court's September 30, 2009 judgment; that the
4 notice of appeal be deemed timely filed no later than October 26, 2009, the date it was received
5 in the Ninth Circuit Court of Appeals; and that a certificate of appealability should not issue in
6 this case.

7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304,
8 this court has conducted a de novo review of this case. Having carefully reviewed the entire file,
9 the court finds the findings and recommendations to be supported by the record and by proper
10 analysis.

11 For the foregoing reasons, IT IS HEREBY ORDERED that:


12 1. The findings and recommendations filed on May 26, 2010 are adopted in full;

13 2. The document filed on May 10, 2010, pursuant to the order in case 2:10-cv-0966 DAD
14 is hereby construed as a notice of appeal with respect to the court's September 30, 2009
15 judgment in this case;

16 3. Petitioner's notice of appeal is deemed timely filed no later than October 26, 2009, the
17 date it was received in the Ninth Circuit Court of Appeals; and

18 4. A certificate of appealability shall not issue in this action.

19 Dated: July 23, 2010

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21 MORRISON C. ENGLAND, JR.
22 UNITED STATES DISTRICT JUDGE
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