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NOT FOR PUBLICATION

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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Steven Lee Tucker

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No. CV-08-0264-PHX-FJM

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Petitioner,

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ORDER

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vs.

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Dora B. Schriro, et al.,

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Defendants.

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The court has before it petitioner’s motion for extension of time to file his Notice of Appeal (doc. 35). Petitioner seeks a thirty day extension to appeal our order dated November 18, 2010, denying his petition for a writ of habeas corpus (doc. 33).

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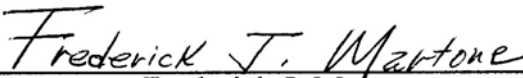
We may extend the time to file a notice of appeal if: (1) the party moves “no later than 30 days after the time prescribed by this Rule 4(a) expires”; and (2) “regardless of whether its motion is filed before or during the 30 days after the time prescribed by this Rule 4(a) expires, that party shows excusable neglect or good cause.” Fed. R. App. P. 4(a)(5)(A). We apply the “good cause” standard because petitioner moved for an extension before the expiration of the initial time to file his notice of appeal and because there is no showing of fault. “In such situations, the need for an extension is usually occasioned by something that is not within the control of the movant.” Fed. R. App. P. 4(a)(5)(A)(ii) advisory committee’s notes to 2002 amendment. For example, the Postal Service’s failure to deliver the notice of appeal might provide good cause for an extension. Id.

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1 Petitioner explains that he has limited access to relevant legal materials and is
2 hampered by mandatory full-time employment and other handicaps of incarceration.
3 However, these are normal circumstances for imprisoned litigants and do not alone constitute
4 good cause for an extension of the appeals deadline. Moreover, we previously denied
5 petitioner a certificate of appealability because a plain procedural bar is present and a
6 reasonable jurist could not conclude that petitioner should be allowed to proceed further.
7 Order of November 18, 2010 at 9 (doc. 33). We conclude that petitioner has not
8 demonstrated that his appeal will be delayed by circumstances beyond his control and that
9 there is not good cause to grant petitioner an extension to file his notice of appeal.

10 Therefore, **IT IS ORDERED DENYING** petitioner's motion for an extension of time
11 (doc. 35).

12 DATED this 1st day of December, 2010.

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16 Frederick J. Martone
17 United States District Judge
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