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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ARIZONA

9 Rudi Alfred Apelt,
10 Petitioner,
11 vs.
12 Dora Schriro, et al.,
13 Respondents.

No. CIV 97-1249-PHX-ROS
Death Penalty Case
Bi-Monthly Status Report

14
15 Petitioner Rudi Alfred Apelt (“Rudi Apelt”), through counsel and pursuant to
16 the order issued by the Court on November 18, 2002, (District Court Docket Entry
17 Number (“Doc. No.”) 151), hereby notifies the Court and the parties of the status of
18 his petition for post-conviction relief filed in the Pinal County Superior Court. The
19 Court directed counsel for Rudi Apelt to file bi-monthly status reports on his claim
20 based on *Atkins v. Virginia*, 536 U.S. 304 (2002), filed in the state superior court.
21 (Doc. No. 151.)

22 On May 19, 2009, the superior court found Rudi Apelt demonstrated “by clear
23 and convincing evidence that he is mentally retarded.” *State v. Rudi Apelt*, No.
24 CR14946 (Pinal Cty. Super Ct., May 19, 2009) at 8. The court granted Rudi Apelt’s
25 petition under Ariz R. Crim. P. 32 and vacated the sentence of death. *Id.*

26 On July 21, 2009, Rudi was re-sentenced. The court sentenced Rudi to life
27 without the possibility of parole for 25 years on the first degree murder charge. On
28 August 3, 2009, Rudi appealed his sentence to the Arizona Court of Appeals, and that

1 matter is pending. The complete record of the state court proceedings has yet to be
2 transmitted by the superior court.

3 Respectfully submitted this 4th day of December, 2009.

4 Jon M. Sands
5 Federal Public Defender
6 Dale A. Baich

7 s/ Dale A. Baich
8 Counsel for Petitioner

9 Certificate of Service

10 I hereby certify that on December 4, 2009, I electronically transmitted the
11 attached document to the Clerk's Office Using the CM/ECF System for filing and
12 transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

13 Jeffrey Zick
14 Assistant Attorney General
15 Attorney General's Office

16 s/ Stephanie Bame
17 Legal Secretary
18 Capital Habeas Unit