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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GARY GRANILLO,)	1:09-cv-00174 LJO MJS HC
Petitioner,)	
v.)	ORDER GRANTING REQUEST FOR
KEN CLARK, Warden,)	EXTENSION OF TIME TO FILE NOTICE
Respondents.)	OF APPEAL
)	(Docs. 20, 24)

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On December 13, 2010, Petitioner filed an application for relief from default to submit a Notice of Appeal. (Application, ECF No. 20.) On December 15, 2010 Petitioner filed a motion for extension of time to file a notice of appeal to the Ninth Circuit Court of Appeals. (Mot., ECF No. 24.) Petitioner filed the notice of appeal contemporaneously with the application and motion. As Petitioner's application and motion seek the same relief, this Court shall consider both filings in the present order.

Pursuant to Rule 4(a)(5)(A) of the Rules of Appellate Procedure, the Court may extend the time to file a notice of appeal if the party moves no later than thirty (30) days after the expiration of the thirty (30) days provided in Rule 4(a)(1) for filing said notice. Petitioner's motion was timely filed within sixty (60) days of the date judgment was entered. Further, Petitioner as shown excusable neglect as required under Rule 4(a)(5)(A)(ii).

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1 Accordingly, Petitioner's motion for an extension of time to file a notice of appeal is
2 GRANTED. See Rule 4(a)(5)(A)(i) of the Federal Rules of Appellate Procedure. Petitioner's
3 notice of appeal, filed within sixty (60) days of judgment shall be considered timely.

4 It is further ordered that the clerk of the court serve a copy of this order on the United
5 States Court of Appeals for the Ninth Circuit.

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7 IT IS SO ORDERED.

8 Dated: January 13, 2011

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE

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