

1 He states he filed a notice of appeal on December 9, 2012, and he requests a certificate of
2 appealability. Petitioner is advised that a notice of appeal was not received on December 9, 2012, or
3 any date thereafter. The only pleading received from Petitioner since the petition was denied was the
4 above-noted notice of his intent to file a request in the future. The instant request for certificate of
5 appealability is moot as the Court declined to issue a certificate on November 19, 2012. However, as
6 Petitioner states he seeks to appeal to the Ninth Circuit, the Court will construe his motion for
7 certificate of appealability as a notice of appeal.


8 **ORDER**

9 Accordingly, IT IS HEREBY ORDERED:

- 10 1) Petitioner’s motion for certificate of appealability is CONSTRUED as a notice of appeal;
11 and
12 2) The Clerk of Court is DIRECTED to process the appeal to the Ninth Circuit Court of
13 Appeals.

14 IT IS SO ORDERED.

15 Dated: May 28, 2013

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18 SENIOR DISTRICT JUDGE