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

JAMES MARTIN SANCHEZ,
Petitioner,

v.
ANTHONY HEDGEPEETH, Warden,
Respondent.

1:11-cv-01043 LJO-MJS HC
**ORDER GRANTING REQUEST FOR
EXTENSION OF TIME TO FILE NOTICE OF
APPEAL**
(Doc. 33)

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

On November 26, 2013 Petitioner filed a motion for extension of time to file a notice of appeal to the Ninth Circuit Court of Appeals. (Mot., ECF No. 33.) 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 not timely filed within sixty (60) days of the date judgment was entered. Petitioner motion was filed 61 days after the judgment. However, under Rule 4(a)(5)(A)(ii) Petitioner may obtain an extension of time regardless of whether its motion is filed after the time prescribed by this Rule 4(a) expires if Petitioner shows excusable neglect or good cause. Here, Petitioner has shown good cause because Petitioner's counsel did

1 not provide Petitioner notice of the September 25, 2013 judgment until after November
2 16, 2013. Petitioner submitted this request within ten days of being provided notice of
3 the judgment. Accordingly, Petitioner has shown excusable neglect as required under
4 Rule 4(a)(5)(A)(ii) in filing the notice of appeal.

5 Accordingly, Petitioner's motion for an extension of time to file a notice of appeal
6 is GRANTED. See Rule 4(a)(5)(A)(ii) of the Federal Rules of Appellate Procedure.
7 Petitioner is granted fourteen (14) days from the date of issuance of this order to file a
8 notice of appeal. See Rule 4(a)(5)(C).

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IT IS SO ORDERED.

Dated: December 9, 2013

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE