IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CRYSTAL EUGENE JONES,

Petitioner,

vs.

JOE McGRATH,

Respondent.

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No. 2:04-cv-01082-MCE-KJM P

ORDER

Petitioner is a state prison inmate proceeding pro se with a petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court entered judgment on January 28, 2008. On June 5, 2009, petitioner filed a document he called "objections to findings and recommendations."[1] This court issued an order declining to consider these objections. Now, nearly a year after that order issued, petitioner has filed a document entitled "motion for reconsideration." What he really seeks is an order allowing him to pursue an untimely appeal of the judgment and lists the issues he believes justify the issuance of a certificate of appealability. He concedes that this notice of appeal is untimely, but says the untimeliness should be excused because he went into deep

[1] He had filed objections on January 14, 2008, after receiving several extensions of time.

depression after the judgment was entered, the court never informed him of any deadlines for filing a notice of appeal, and he is actually innocent of the crimes which he challenged in this habeas action.

Under Rule 4(a)(1)(A) of the Federal Rules of Appellate Procedure, a notice of appeal must be filed within thirty days after the entry of judgment. A court may extend the time for filing a notice of appeal only if the motion is filed within the thirty day period following the expiration of the time to appeal and the party shows excusable neglect or good cause. Fed. R. App. P. 4(a)(5)(A). Any order extending the time to file a notice of appeal must be strictly temporally limited.

Petitioner's attempts to demonstrate good cause or excusable neglect in this case are unavailing, because his request was filed long after the thirty day period for seeking an extension of time.

IT IS THEREFORE ORDERED that petitioner's motion (docket no. 31) for the issuance of a certificate of appealability and for permission to pursue a late appeal is denied.

Dated: June 22, 2010

MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE