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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TYRELL TRAVIS BROWN,

No. 07 CV 0429 JCW

Petitioner,

ORDER

v.

KEN CLARK,

Respondent.

_____ /

An appeal “from a district court to a court of appeals may be taken only by filing a notice of appeal with the district clerk.” Fed. R. App. P. 3(a)(1). The notice of appeal “must be filed with the district clerk within 30 days after the judgment or order appealed from is entered.” Fed. R. App. P. 4(a)(1)(A). “District courts may not construe an untimely notice of appeal as a motion for extension of time. *Pettibone v. Cupp*, 666 F.2d 333, 335 (9th Cir. 1981). “The procedures set forth in rule 4 are strictly construed; there is no exception for prisoners proceeding pro se or for habeas corpus actions.” *Malone v. Avenenti*, 850 F.2d 569, 572 (9th Cir. 1988). Because Brown has not filed his notice of appeal within 30 days of the

1 August 11, 2010 order denying his petition for a writ of habeas corpus, it is ordered
2 that Brown's motion for a certificate of appealability is denied.

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4 DATED: February 3, 2011

/s/ J. Clifford Wallace
J. Clifford Wallace
United States Circuit Judge

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