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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION**

BEGOIA MORGANDE,  <div style="text-align: right; padding-right: 20px;">Petitioner,</div>	)	Case No. 2:07-CV-1824-MMS  <b>ORDER</b>
v.	)	
JAMES E. TILTON, Secretary of California Department of Corrections and Rehabilitation, et al.,  <div style="text-align: right; padding-right: 20px;">Respondents.</div>	)	

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Petitioner Begoia Morgande filed a petition for a writ of habeas corpus on September 5, 2007. This court denied that petition in an order and judgment entered on August 13, 2009. On January 5, 2012, Morgande filed a motion asking the court to reopen the time to file a notice of appeal and for a certificate of appealability. He claimed that he never received notice of the judgment despite updating his address within the California prison system. This court denied that motion on January 13, 2012, in an order that stated “After 180 days of the judgment, this court lacks the authority to reopen the time to appeal. *See* Fed. R. Civ. P. 77(d); Fed. R. App. P. 4(a)(6)(B); *Bowles v. Russell*, 551 U.S. 205, 214 (2007).”

1 Morgande has now filed a second motion asking to reopen the case and for a  
2 certificate of appealability. This court still lacks the authority to reopen the time to  
3 appeal after 180 days have passed since judgment. Although courts in the past  
4 could use Rule 60 to reopen the time to appeal, this is no longer possible after the  
5 1991 amendments to the Rules. *See In re Stein*, 197 F.3d 421, 425-26 (9th Cir.  
6 1999).

7 Morgande's motion to reopen the case is DENIED. In order that Morgande  
8 may seek review of this decision, Morgande's motion for a certificate of  
9 appealability is GRANTED on the issue of whether this court has the authority to  
10 reopen the time to appeal.

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12 DATED: March 9, 2012

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14 */s/ Mary M. Schroeder*  
15 MARY M. SCHROEDER,  
16 United States Circuit Judge  
17 Sitting by designation  
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