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

TRUITT MOORE,

Petitioner,

No. 2:09-cv-2737 JFM (HC)

vs.

MIKE EVANS, Warden,

Respondent.

ORDER

_____/

On October 22, 2010, the court issued an order denying petitioner’s petition for writ of habeas corpus and granting a certificate of appealability as to one of petitioner’s two claims. Judgment was entered accordingly. On November 12, 2010, petitioner filed a motion for expansion of the limited certificate of appealability. This motion was denied on January 4, 2011. On January 19, 2011, petitioner filed a motion for a notice of appeal nunc pro tunc from the date that the undersigned granted the certificate of appealability. Also on January 19, 2011, petitioner filed a notice of appeal.

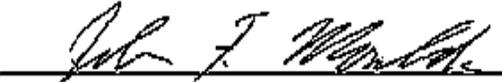
Examination of the appellate docket in this case through PACER reveals that a notice of appeal was filed on November 19, 2010 and that a briefing schedule was issued on December 14, 2010. See Ninth Circuit Court of Appeals, Case No. 10-17813. On January 20, 2011, the appellate court received an amended notice of appeal from the clerk of this court. Petitioner was subsequently appointed counsel on appeal. As of March 28, 2011, that attorney has appeared and is proceeding before the Ninth Circuit Court of Appeals.

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. Petitioner’s motion for a notice of appeal nunc pro tunc is denied as
3 unnecessary; and

4 2. The Clerk of the Court is directed to forward a copy of this letter to the Clerk
5 of the Court for the Ninth Circuit Court of Appeals.

6 DATED: May 2, 2011.

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9 UNITED STATES MAGISTRATE JUDGE

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