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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM JAMES HARRIS,
Petitioner,
v.
CONNIE GIPSON,
Respondent.

No. 2:12-cv-02846 LKK AC P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. A review of this court’s docket indicates that petitioner’s writ of habeas corpus was denied by this court on April 21, 2014. ECF No. 42. By the same order, the district judge denied petitioner a certificate of appealability. Id. Petitioner was required to file a notice of appeal within thirty days of the entry of final judgment on April 21, 2014. See Fed. R. App. P. 4(a)(1)(A). No such notice of appeal was filed by petitioner.

Instead, petitioner filed a request for a thirty day extension of time to file a request for a certificate of appealability. ECF No. 45. By application of the prison mailbox, petitioner’s request was filed on May 26, 2014;¹ it was not docketed in this court until June 13, 2014. Id. However, it is not clear from the case caption whether petitioner intended to file the motion in the

¹ See Houston v. Lack, 487 U.S. 266 (1988) (pro se prisoner’s filings may be construed as filed on the date they were submitted to prison authorities for mailing).

1 Ninth Circuit Court of Appeals or in this court. Since the request bears the correct case number
2 for petitioner's habeas proceeding in this court, the request for an extension of time to file a
3 certificate of appealability will be denied as moot. This court denied a certificate of appealability
4 on April 21, 2014 in its final order denying habeas corpus relief.

5 If petitioner intended to file the request in the Ninth Circuit Court of Appeals, he was
6 required to first file a timely notice of appeal of this court's final judgment. See Fed. R. App. P.
7 4. Petitioner did not do so.

8 Therefore, IT IS HEREBY ORDERED that petitioner's request for an extension of time to
9 file a request for a certificate of appealability (ECF No. 45) is denied as moot.

10 DATED: June 17, 2014

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12 ALLISON CLAIRE
13 UNITED STATES MAGISTRATE JUDGE
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