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

NORMAN PATTERSON, )  
Petitioner, )  
v. )  
LARRY SMALL, Warden, )  
Respondent. )  
\_\_\_\_\_ )

No. C 08-5423 MMC (PR)

**ORDER GRANTING PETITIONER'S  
REQUEST FOR EXTENSION OF TIME  
TO FILE NOTICE OF APPEAL AND  
CERTIFICATE OF APPEALABILITY**

**(Docket No. 18)**

On December 2, 2008, petitioner, a California prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On August 6, 2010, the Court's orders granting respondent's motion to dismiss the petition as untimely and entering judgment in favor of respondent were filed. The Clerk mailed a copy of the orders to petitioner that same date.

On September 2, 2010, petitioner sent to the Court a letter seeking an extension of time to file a request for a certificate of appealability ("COA"), on the grounds he did not receive the Court's order and judgment until August 13, 2010, did not get access to the law library until August 27, 2010, and is in need of help from resources outside the prison to prepare his COA request. The Court construes the above-referenced letter as a request for an

1 extension of time to file a notice of appeal. Cf. Tinsley v. Borg, 895 F.2d 520, 523 (9th Cir.  
2 1990) (treating timely pro se motion for certificate of appealability as timely notice of  
3 appeal).

4 Federal Rule of Appellate Procedure 4(a) is the exclusive avenue for relief from the  
5 expiration of the period to file a timely notice of appeal. See In re Stein, 197 F.3d 421, 426-  
6 27 (9th Cir. 2000). Rule 4(a)(5) allows for an extension of time to appeal if the party  
7 requests such relief within thirty days of the expiration of the time to file the notice and  
8 shows excusable neglect or good cause. See Fed. R. App. P. 4(a)(5). The extension must be  
9 to a date no more than thirty days after the original deadline, or fourteen days after the entry  
10 of the order granting the motion, whichever is later. See id

11 GOOD CAUSE APPEARING, petitioner's motion for an extension of time to file a  
12 notice of appeal and COA is hereby GRANTED. Petitioner shall file the notice of appeal  
13 and COA within **fourteen** days of the date this order is filed.

14 This order terminates Docket No. 18

15 IT IS SO ORDERED.

16 DATED: October 21, 2010

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18 MAXINE M. CHESNEY  
19 United States District Judge  
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