

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

NORMAN RONNIE HANSEN,

Petitioner,

v.

FRANK X. CHAVEZ, Warden,

Respondent.

C 11-3568 TEH (PR)

ORDER DENYING PETITION FOR WRIT
OF HABEAS CORPUS; DENYING
CERTIFICATE OF APPEALABILITY

_____ /

Petitioner Norman Ronnie Hansen, a state prisoner incarcerated at Sierra Conservation Center (SCC) located in Jamestown, California, filed this pro se action seeking a writ of habeas corpus under 28 U.S.C. § 2254. The matter is now before the Court for consideration of the merits of the habeas petition. For the reasons discussed below, the petition will be DENIED.

I

On December 10, 2008, Petitioner was sentenced in Santa Clara County Superior Court to thirteen years following his guilty plea. 11 Clerk's Transcript (CT) 2843-2847.

Petitioner appealed his conviction in the California Court of Appeal and also filed a state petition for a writ of habeas corpus asserting ineffective assistance of counsel. The Court of

United States District Court
For the Northern District of California

1 Appeal consolidated the two cases. On November 23, 2010, in an
2 unpublished decision, the California Court of Appeal affirmed the
3 judgment and denied the habeas petition. People v. Hansen 2010 WL
4 4739532 (Cal. Ct. App. Nov. 23, 2010). On March 21, 2011, the
5 California Supreme Court summarily denied review. Respondent. Exh.
6 11. On January 7, 2011, Petitioner filed a habeas petition in the
7 California Supreme Court. Respondent. Exh. 12. On June 15, 2011,
8 the California Supreme Court summarily denied the petition.
9 Respondent's Exhibit 8.

10 On July 20, 2011, Petitioner filed the instant federal
11 petition asserting the following claims: (1) the trial court
12 violated his right to due process by imposing consecutive sentences
13 based on the facts underlying counts dismissed in his plea bargain,
14 in violation of People v. Harvey, 25 Cal. 3d 754 (1979);
15 (2) ineffective assistance of counsel based on counsel's failure to
16 raise a Harvey violation objection at sentencing; (3) the trial
17 court violated his right to due process because it exceeded its
18 sentencing discretion under California law; (4) the trial court
19 violated his due process rights by relying on the same set of
20 factors to impose a sentencing enhancement and consecutive
21 sentences; and (5) ineffective assistance of counsel for failing to
22 object to the due process violation in claim four. On February 3,
23 2012, this Court ordered Respondent to show cause as to why the
24 petition should not be granted. Respondent filed an answer;
25 Petitioner filed a traverse.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II

The following factual background is taken from the order of the California Court of Appeal.

Pursuant to a plea agreement, defendants Norman Ronnie Hansen and Joseph Maloof pleaded guilty to multiple counts arising from their fraudulent operation of three travel agencies. The defendants admitted certain enhancing allegations, and Hansen admitted having a strike prior conviction within the meaning of Penal Code sections 667, subdivisions (b)-(c) and 1170.12. The remaining counts and enhancements were dismissed and, after the trial court granted Hansen's Romero motion [striking the prior conviction], the defendants were sentenced to a total terms of thirteen years.

. . .

On April 25, 2008, defendants were charged by information with embezzlement by trustees (§ 506, count 1); nine counts of failure to provide travel services or make refunds (Bus. & Prof. Code, § 17550.14, subd. (a)(1), counts 2, 4, 5, 6, 8, 11, 12, 13, 14); three counts of theft or embezzlement from an elder or dependent adult (§ 368, subd. (d), counts 3, 7, 9); writing a check with insufficient funds (§ 476a, count 10), unlawful encumbrance of a trust account by a "seller of travel" (Bus. & Prof. Code, § 17550.15, subd. (c), count 15); two counts of money laundering of more than \$5,000 (§ 186.10, subd. (a), counts 16, 17), and theft of funds received as insurance premium (Ins. Code, § 1733, count 18). Hansen was additionally charged with presenting a false insurance claim (§ 550, subd. (a)(1), count 19).

The information further alleged that Hansen had suffered a strike prior conviction. (§§ 667, subs. (b)-(c), 1170.12.) As to the embezzlement count, the information alleged that defendants took property with a value exceeding \$1 million (§ 12022.6, subd. (a)(3)), and with respect to the nine counts of failure to provide travel services or refunds that each defendant obtained \$1,000 or more within a consecutive 12 month period from all persons, and \$400 or more from one person in a 12 month period (Bus. & Prof. Code, § 17550.19, subd. (b)). The information also alleged an aggravated white collar crime enhancement (§ 186.11, subd. (a)(1), (2)) on the basis that the crimes involved a pattern of felony conduct resulting in the taking of more than \$500,000.

On May 6, 2008, defendants pleaded guilty to counts 1, 2, 4, 5, 6, 8, and 10 through 16. They also admitted the allegations pursuant to section 12022.6, subdivision (a)(3) and Business and Professions Code section 17550.19, subdivision (b). Hansen

1 admitted having a felony strike prior conviction. All
2 remaining counts and enhancements were dismissed. Maloof was
3 advised that he could be sentenced to a maximum term of 14
4 years. Hansen was advised that he faced a maximum term of 28
5 years in prison unless his Romero motion was granted, in which
6 case his maximum sentence would be 14 years.

7 Hansen's Romero motion was granted, and on December 10, 2008,
8 defendants were each sentenced to a total prison term of 13
9 years.

10 Maloof and Hansen owned and operated, were employed by, and/or
11 purchased three related travel agencies: JM Travel Selections
12 (TS), based in Santa Clara County; ITS International Tours
13 (ITS), based in Louisiana; and International Grand Tours (IGT),
14 based in Santa Clara County. From 2003 through 2005,
15 defendants received payment from a number of victims totaling
16 in excess of \$1.2 million for travel services, mostly involving
17 group travel for schoolchildren and religious pilgrimages. The
18 defendants failed to provide the arranged and paid for travel
19 services, and failed to refund the monies paid.

20 During the course of their operations, the defendants
21 repeatedly used funds received from clients to meet other
22 unrelated financial obligations, and would attempt to delay the
23 purchase of travel services until a later group of victims
24 could submit payment for an unrelated travel service. The
25 funds deposited by victims were transferred out of the travel
26 agencies' accounts for numerous reasons, including but not
27 limited to the following: paying outstanding debts to other
28 creditors; deposits into the defendants' personal accounts;
purchasing and paying off the debt on personal vehicles, such
as a Toyota Celica purchased by Maloof's daughter; purchasing
meals and day-to-day necessities; and purchasing travel
services for defendants' family, friends and associates, such
as a cruise for Hansen's wife and a number of TS employees.

Defendants also laundered funds from one company to another,
using personal accounts and numerous banks to transfer the
funds. They also charged some of their victims for travel
insurance, but failed to purchase any such insurance. Because
the defendants had "a fiduciary responsibility with respect to
all sums received for transportation or travel services" under
Business and Professions Code section 17550.15, subdivision
(g), their use of the victims' funds for unrelated expenses and
outstanding debts constituted embezzlement.

As the amount of money defendants owed grew, their scheme broke
down, as they no longer had enough money on hand to purchase
the travel services for which they had received payment. At
that point, defendants began adding fraudulent surcharges to
their bills in an attempt to increase their cash flow. These

1 surcharges included extra fees for "currency fluctuations,"
2 despite there being no such fluctuations, as well as "air
3 taxes" and "fuel surcharges" supposedly imposed by the
4 airlines, even though no airline tickets were purchased.

5 In all, more than 600 individual victims were harmed by
6 defendants' actions. Defendants failed to provide travel
7 services paid for, failed to honor requests for refunds or
8 provide refunds within the time provided by law after
9 cancelling trips or allowing scheduled departure dates to
10 lapse. On numerous occasions, defendants would send refund
11 checks to victims, knowing that there were insufficient funds
12 to cover the checks, which would subsequently bounce.

13 . . .

14 At the sentencing hearing, which took place over three days,
15 two witnesses testified on Hansen's behalf and Maloof spoke at
16 length explaining his version of what happened and in which he
17 placed the majority of the blame on Hansen. Hansen spoke
18 briefly on his own behalf, stating that he never intended to
19 take anyone's money and that he intended to pursue insurance
20 claims to recoup his clients' funds. The prosecutor and
21 Hansen's counsel each submitted detailed sentencing memoranda
22 to the court. The prosecutor also presented several taped
23 victim statements to the court.

24 Before pronouncing sentence, the trial court noted that the
25 defendants had presented conflicting versions of what took
26 place, each of them pointing the finger of blame at the other."
27 . . . [¶]. What there's no question about in my mind and which
28 nobody can dispute is there are a lot of victims in this case;
every kind and of every category, and that's somewhat
overlooked."

The court praised the probation department for preparing an
excellent report with multiple letters, each of which the court
had read. The letters, along with the victims' recordings
played by the prosecutor, helped the court appreciate the
emotional impact of defendants' crimes. The court noted that
many of the victims were young students who worked for money to
take the trips in question, teachers whose reputations were
damaged when parents accused them of taking the funds, as well
as elderly people who lost once in a lifetime opportunities.

The court found that both defendants were "pretty much in the
same position as far as the court has considered regarding
. . . their culpability and responsibility so both will be
sentenced to exactly the same sentence." The court denied
probation, citing "the seriousness of the case, the
sophistication and planning that was involved, the large number
of victims and the amount of the losses."

1 In pronouncing sentence, the court "considered both aggravating
2 and mitigated sentencing factors pursuant to [California] Rules
3 of Court [rules] 4.421 and 4.423. In all honesty the court
4 finds that the aggravating factors far outweigh any mitigating
5 factors that would apply. However, due primarily to the fact
6 that this case was resolved early without a trial the court
7 will be considering imposing mid-terms instead of aggravating
8 terms on each count. [¶] The court is going to choose to run
9 consecutive [sentences on] each of the counts[.] I base that
10 primarily on the rule of court that addresses that issue and
11 the recognition that . . . several charges were dismissed, and
12 the evidence also shows that there are literally hundreds of
13 victims that are not reflected in any of the counts that were
14 pled guilty to. Groups of victims and other victims that were
15 not involved in any so to the extent that you've explained why
16 they are concurrent, I'm not necessarily rejecting that, I'm
17 just indicating that I'm deciding to run the charges—or the
18 sentences consecutive because I feel that the crimes do reflect
19 separate instances of conduct and separate victims or groups of
20 victims."

21 The court then imposed the mid-term sentence of two years on
22 count 1, with a three year enhancement for excessive taking
23 under section 12022.6, for a total of five years. On each of
24 the remaining 12 counts the middle term was two years, so the
25 court imposed one third the middle term, or eight months,
26 consecutive sentences for a total term of 13 years.

27 Hansen, 2010 WL 4739532 at *1-4.

28 III

Under the Antiterrorism and Effective Death Penalty Act of
1996 ("AEDPA"), codified under 28 U.S.C. § 2254, a federal court may
not grant a writ of habeas corpus on any claim adjudicated on the
merits in state court unless the adjudication: "(1) resulted in a
decision that was contrary to, or involved an unreasonable
application of, clearly established Federal law, as determined by
the Supreme Court of the United States; or (2) resulted in a
decision that was based on an unreasonable determination of the
facts in light of the evidence presented in the State court
proceeding." 28 U.S.C. § 2254(d).

1 "Under the 'contrary to' clause, a federal habeas court
2 may grant the writ if the state court arrives at a conclusion
3 opposite to that reached by [the Supreme] Court on a question of law
4 or if the state court decides a case differently than [the] Court
5 has on a set of materially indistinguishable facts." Williams
6 (Terry) v. Taylor, 529 U.S. 362, 412-13 (2000). "Under the
7 'unreasonable application' clause, a federal habeas court may grant
8 the writ if the state court identifies the correct governing legal
9 principle from [the] Court's decisions but unreasonably applies that
10 principle to the facts of the prisoner's case." Id. at 413.

11 "[A] federal habeas court may not issue the writ simply
12 because that court concludes in its independent judgment that the
13 relevant state-court decision applied clearly established federal
14 law erroneously or incorrectly. Rather, that application must be
15 objectively unreasonable." Lockyer v. Andrade, 538 U.S. 63, 75-76
16 (2003) (internal quotation marks and citation omitted). Moreover,
17 in conducting its analysis, the federal court must presume the
18 correctness of the state court's factual findings, and the
19 petitioner bears the burden of rebutting that presumption by clear
20 and convincing evidence. 28 U.S.C. § 2254(e)(1). As the Court
21 explained: "[o]n federal habeas review, AEDPA 'imposes a highly
22 deferential standard for evaluating state-court rulings' and
23 'demands that state-court decisions be given the benefit of the
24 doubt.'" Felkner v. Jackson, __ U.S. __, 131 S. Ct. 1305, 1307
25 (2011) (citation omitted).

26 When applying these standards, the federal court should
27
28

1 review the "last reasoned decision" by the state courts. Avila v.
2 Galaza, 297 F.3d 911, 918 n.6 (9th Cir. 2002). Because the
3 California Supreme Court summarily denied Petitioner's petition for
4 review of his direct appeal and his petition for a writ of habeas
5 corpus, this Court looks to the California Court of Appeal's
6 November 23, 2010 written opinion affirming the trial court's
7 judgment and denying his petition for a writ of habeas corpus.

8 With these principles in mind regarding the standard and
9 scope of review on federal habeas, the Court addresses Petitioner's
10 claims.

11 IV

12 A

13 In his first claim for relief, Petitioner contends that
14 his sentence amounted to a violation of due process under Santobello
15 v. New York, 404 U.S. 257 (1971) because he was sentenced to
16 consecutive terms allegedly based on dismissed counts in violation
17 of Harvey. Petitioner. at 6. Respondent counters that this claim
18 is procedurally defaulted and, even if the Court could address its
19 merits, the Court of Appeal's denial of this claim on its merits was
20 not unreasonable. Respondent. Ans. at 7.

21 The state Court of Appeal found that this claim was
22 procedurally barred, and also denied it on its merits as follows:

23 Defendants contend that the trial court improperly relied on
24 dismissed counts to impose fully consecutive subordinate terms,
in violation of Harvey.

25 Defendants were initially charged with one count of
26 embezzlement, nine counts of failure to provide travel services
27 or make refunds, three counts of theft or embezzlement from an
elder or dependent adult, one count of making a check with

1 insufficient funds, one count of unlawful encumbrance of a
2 trust account by a seller of travel, two counts of money
3 laundering and one count of theft of funds received as an
4 insurance premium. Hansen was also charged with presenting a
5 false insurance claim. They both pleaded guilty to all counts
6 except for the three counts charging theft or embezzlement from
7 an elder or dependent adult, one count of money laundering, and
8 theft of funds received as an insurance premium, and those
9 counts were dismissed. Hansen also did not plead guilty to the
10 charge of presenting a false insurance claim, and that count
11 was also dismissed. Both defendants admitted certain
12 enhancements and Hansen admitted having suffered a strike prior
13 conviction.

14 Neither defendant raised a Harvey objection at the sentencing
15 hearing. It is well-settled that "complaints about the manner
16 in which the trial court exercises its sentencing discretion
17 and articulates its supporting reasons cannot be raised for the
18 first time on appeal." (People v. Scott (1994) 9 Cal.4th 331,
19 356.) Thus, defendants' claim has been forfeited. However,
20 even if we were to consider it, there is no merit to the
21 contention.

22 In Harvey, the California Supreme Court held that, where a plea
23 is entered on condition that other counts be dismissed, it is
24 an "[i]mplicit" term of the plea agreement "(in the absence of
25 any contrary agreement) that defendant will suffer no adverse
26 sentencing consequences by reason of the facts underlying, and
27 solely pertaining to, the dismissed counts." (Harvey, 25
28 Cal.3d at 758.) However, Harvey does not apply where the
dismissed counts were "transactionally related " to the count
to which the defendant pleaded. Id.

The record is clear that the court decided to impose
consecutive sentences based on the separate occasions and
separate victims involved in the nine counts at issue. It is
true that the trial court mentioned that several charges
against the defendants had been dismissed pursuant to the plea
bargain, but it made that reference in the context of
criticizing the prosecutor's more lenient sentencing
recommendation. The trial court does not discuss the dismissed
counts in articulating the reasons why it was imposing
consecutive sentences on counts 2, 4, 5, 6, 8, and 10 through
16. Instead, the trial court explicitly stated that those
sentences would run consecutively because the nondismissed
counts took place on different occasions and involved separate
victims.

Hansen, 2010 WL 4739532 at *6-7.

Petitioner concedes that this claim is procedurally barred
but argues that he shows cause and prejudice based on counsel's
ineffective assistance in not objecting to it at Petitioner's

1 sentencing hearing. As discussed below, counsel was not
2 ineffective, and therefore the claim is procedurally barred.
3 However, even if it were not procedurally barred, it fails on its
4 merits.

5 Under Santobello, a criminal defendant has a due process
6 right to enforce the terms of his plea agreement. 404 U.S. at 261-
7 62. When a plea rests in any significant degree on a promise or
8 agreement of the prosecutor, so that it can be said to be part of
9 the inducement or consideration, such promise must be fulfilled.
10 Id. at 262. The construction and interpretation of state court plea
11 agreements "and the concomitant obligations flowing therefrom are,
12 within broad bounds of reasonableness, matters of state law."
13 Buckley v. Terhune, 441 F.3d 668, 695 (9th Cir. 2006)(quoting
14 Ricketts v. Adamson, 483 U.S. 1, 6 n.3 (1987)). State courts are
15 presumed to know and follow the law. Woodford v. Visciotti, 537
16 U.S. 19, 24 (2002). A state appellate court's factual findings are
17 also presumed correct in the absence of clear and convincing
18 evidence to the contrary. William v. Rhodes, 354 F.3d 1101, 1108
19 (9th Cir. 2004).

20 Here, the state Court of Appeal made a factual finding
21 that the trial court based the sentence solely on the nine counts to
22 which Petitioner pleaded guilty. It found that, although the trial
23 court mentioned the dismissed charges, it made that reference in the
24 context of criticizing the prosecutor's more lenient sentencing
25 recommendation. Hansen, 2010 WL4739532 at *7. Additionally, the
26 appellate court found that the trial court explicitly stated that
27 the sentence would run consecutively because the nondismissed counts
28 took place on different occasions and involved separate victims.

1 Id. Without evidence to the contrary, these factual findings are
2 presumed to be correct.

3 The trial court stated it was imposing consecutive terms
4 because "the crimes do reflect separate instances of conduct and
5 separate victims or groups of victims." Reporter's Transcript (RT)
6 268. After selecting the base term, the trial court emphasized that
7 the additional eight-month sentence for each of the remaining counts
8 was to run consecutive, "again reflecting separate occasions and
9 against separate victims." RT 469. The record below provides ample
10 support for the trial court's decision. The counts with which
11 Petitioner was charged involved separate occasions and separate
12 victims as follows:

13 Count 2: June 29 to August 25, 2005; victims named as Canadian
14 Rockies tour group with leader Marilyn Cole and Roberta
Kraynick;

15 Count 4: September 21 to November 2, 2004; victims named as
16 Pilgrims from Archdiocese of Kansas City with group leaders Rev.
James Kelcher and Susan Carroll;

17 Count 5: October 18 to December 23, 2004; victims named as
18 Pilgrims from Michigan Catholic Radio with group leader John
Kruse;

19 Count 6: September 20 to November 31, 2004, victim named as
20 Barbara Collins;

21 Count 8: September 27 to February 2, 2005; victim named as
Charles Newger;

22 Count 10: On or about January 5, 2005; wrote check with
23 insufficient funds drawn on Wells Fargo Bank;

24 Count 11: May 19 to July 11, 2005; victims named as Students of
Edwardsville High School with group leader Marion Thompson;

25 Count 12: June 13 to August 3, 2005; victims named as the
26 Students of Depew High School with group leader Angela Roeser;

27 Count 13: June 9 to July 21, 2005; victims named as the
28 Students of Fairmont High School with group leader Amy
Dunaway-Haney;

1 Count 14: June 23 to August 16, 2005; victims named as Jeff and
2 Martha Davis;

3 Count 15: September 1 to September 24, 2004 - unlawful
4 encumbrance of trust account by taking money from the trust
5 account for a purpose other than that authorized by law;

6 Count 16: December 17 to 20, 2004; money laundering.

7 CT at 394-400.

8 Based on these counts, the trial court properly imposed
9 consecutive terms and there was no violation of the plea agreement
10 or denial of due process under Santobello. Therefore, it was not
11 objectively unreasonable for the Court of Appeal to determine that
12 there was no Harvey violation because Petitioner was not sentenced
13 to consecutive terms based on the dismissed charges, but rather on
14 the nondismissed counts involving separate crimes and separate
15 victims.

16 B

17 In his second claim, Petitioner argues that he suffered
18 ineffective assistance of counsel because his attorney failed to
19 object to the Harvey violation at sentencing. Petitioner. at 6;
20 Trav. at 8. Respondent argues that this claim is procedurally
21 defaulted. Resp. Ans. at 10. The Court addresses this claim on its
22 merits.

23 In order to prevail on a Sixth Amendment ineffectiveness
24 of counsel claim, a petitioner must establish two things. First, he
25 must establish that counsel's performance was deficient, i.e., that
26 it fell below an "objective standard of reasonableness" under
27 prevailing professional norms. Strickland v. Washington, 466 U.S.
28 668, 687-88 (1984). Second, he must establish that he was
prejudiced by counsel's deficient performance, i.e., that "there is

1 its own sentencing laws does not justify federal habeas relief.
2 Christian v. Rhode, 41 F.3d 461, 469 (9th Cir. 1994); Cacoperdo v.
3 Demosthenes, 37 F.3d 504, 507 (9th Cir. 1994) ("The decision whether
4 to impose sentences concurrently or consecutively is a matter of
5 state criminal procedure and is not within the purview of federal
6 habeas corpus"). Furthermore, a petitioner may not "transform a
7 state-law issue into a federal one merely by asserting a violation
8 of due process." Langford v. Day, 110 F.3d 1380, 1389 (9th Cir.
9 1996).

10 Petitioner does not cite to any federal law or
11 constitutional provision in support of this claim. Petitioner's
12 assertion of a due process violation does not entitle him to federal
13 habeas relief unless he can show fundamental unfairness. Langford,
14 110 F.3d at 1388; Christian, 41 F.3d at 469.

15 Furthermore, Petitioner fails to show fundamental
16 unfairness. The Court of Appeal found that the trial court
17 exercised informed discretion as follows:

18 We presume that the trial court acted in such a way
19 as to achieve legitimate sentencing objectives. (People v.
20 Superior Court (Alvarez) (1997) 14 Cal.4th 968, 977-978.)
Consequently, defendants bear the burden to show that the
court's ruling was irrational or arbitrary.

21 The trial court made it clear that it believed that the
22 aggravating factors in this case far outweighed the mitigating
23 factors, but decided to impose the mid-term punishment because
24 the defendants had resolved the case quickly by entering into a
25 plea bargain. The court made this statement before revealing
26 that it would be imposing consecutive sentences on certain
27 counts. Once it indicated that all other counts would run
28 consecutive to the embezzlement count, the court imposed
one-third the mid-term sentences on each of those counts.
Defendants have not shown that the trial court either
misunderstood or failed to properly exercise its discretion in
imposing this sentence.

Hansen, 2010 WL 4739532 at *8.

1 traverse, claiming that the trial court should have stayed his
2 sentence under California Penal Code section 654. A traverse,
3 however, is not the proper pleading to raise additional grounds for
4 relief. In order for the respondent to be properly advised of
5 additional claims, they should be presented in an amended petition
6 or in a statement of additional grounds. Cacoperdo, 37 F.3d at 507.
7 Only then can the respondent answer the claims and the action can
8 proceed. Id. Thus, the section 654 claim is not cognizable because
9 Petitioner did not raise it in his petition.

10 CONCLUSION

11 Based on the foregoing, the Court of Appeal's denial of
12 Petitioner's claims was not contrary to or an unreasonable
13 application of established federal law or an unreasonable
14 determination of the facts in light of the evidence presented in the
15 state court proceeding. Therefore, the petition for a writ of
16 habeas corpus is DENIED.

17 Further, a Certificate of Appealability is DENIED. See
18 Rule 11(a) of the Rules Governing Section 2254 Cases. Petitioner
19 has not made "a substantial showing of the denial of a
20 constitutional right." 28 U.S.C. § 2253(c)(2). Nor has Petitioner
21 demonstrated that "reasonable jurists would find the district
22 court's assessment of the constitutional claims debatable or wrong."
23 Slack v. McDaniel, 529 U.S. 473, 484 (2000). Petitioner may not
24 appeal the denial of a Certificate of Appealability in this Court
25 but may seek a certificate from the Court of Appeals under Rule 22
26 of the Federal Rules of Appellate Procedure. See Rule 11(a) of the
27 Rules Governing Section 2254 Cases.

28 The Clerk is directed to enter Judgment in favor of

1 Respondent and against Petitioner, terminate any pending motions as
2 moot and close the file.

3 IT IS SO ORDERED.

4

5 DATED 04/10/2013



THELTON E. HENDERSON
United States District Judge

6

7

8

9

10

11

12

13

14

15

16

17 G:\PRO-SE\TEH\HC.11\HANSEN 11-3568 Deny Pet.wpd

18

19

20

21

22

23

24

25

26

27

28