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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL L. TILBURY,
Petitioner,
v.
ROBERT W. FOX, Warden,
Respondent.

Case No. 15-cv-01266-HSG (PR)

**ORDER DENYING APPLICATION FOR
EXTENSION OF TIME TO FILE
NOTICE OF APPEAL**

Re: Dkt. No. 22

On August 1, 2016, the Court denied on the merits petitioner's application for a writ of habeas corpus and entered judgment. On August 24, 2016, petitioner filed an application for an extension of time to file a notice of appeal.

A petitioner may not appeal a final order in a federal habeas corpus proceeding without first obtaining a certificate of appealability. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A judge shall grant a certificate of appealability "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The certificate must indicate which issues satisfy this standard. *See id.* § 2253(c)(3).

For the reasons stated at pages 39-40 of the Court's August 1, 2016 order, a certificate of appealability was denied. Accordingly, petitioner's request for an extension of time to file a notice of appeal is DENIED as moot.

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The Clerk shall forward this order to the United States Court of Appeals for the Ninth Circuit, from which petitioner may also seek a certificate of appealability. *See United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997).

This order terminates Docket No. 22

IT IS SO ORDERED.

Dated: 9/20/2016


HAYWOOD S. GILLIAM, JR.
United States District Judge