



1 issues are appealable (if the certificate is granted), or why none are appealable (if the  
2 certificate is denied).

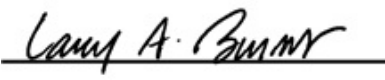
3 Petitioner is represented by counsel. Because no formal request for a certificate of  
4 appealability has ever been made, Petitioner has not specified which issues he wishes to  
5 appeal, and on what basis. Under AEDPA, the Court can only issue such a certificate “if the  
6 applicant has made a substantial showing of the denial of a constitutional right,” and the  
7 certificate must “indicate which specific issue or issues satisfy the [required] showing.” *Smith*  
8 *v. Mahoney*, 596 F.3d 1133, 1148 (quoting 28 U.S.C. § 2253(c)(2) and (3)).

9 Because of the passage of time, mootness has become a concern. Petitioner’s latest  
10 parole hearing was scheduled some time in 2008, so it apparently has taken place. The  
11 petition may therefore have been mooted by later decisions of the Board of Parole Hearings.  
12 The Court is obligated to examine jurisdictional issues such as mootness, *sua sponte* if  
13 necessary. *ACLU of Nevada v. Lomax*, 471 F.3d 1010, 1015 (9th Cir. 2006).

14 Petitioner is therefore **ORDERED** to file an application for a certificate of appealability  
15 identifying the issues for appeal and showing that they are appealable. The request must  
16 also explain why the issues present a live controversy and have not become moot as a result  
17 of later parole hearings or decisions. As the party invoking the Court’s jurisdiction, Petitioner  
18 bears the burden of showing this is a live controversy. *D’Lil v. Best Western Encina Lodge*  
19 *& Suites*, 538 F.3d 1031, 1036 (9th Cir. 2008). The application shall not exceed fifteen  
20 pages, not counting any attached or lodged material, and must be filed by **August 9, 2010**.  
21 Respondent may, if he wishes, file a reply on the issue of mootness, no later than **August**  
22 **16, 2010**. Respondent’s reply must not exceed seven pages, not counting any attached or  
23 lodged material.

24 **IT IS SO ORDERED.**

25 DATED: July 8, 2010

26   
27 **HONORABLE LARRY ALAN BURNS**  
28 United States District Judge