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17 **IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

18 DANIEL WAYNE COOK,

19 Petitioner,

20 v.

21 CHARLES RYAN, Director of Arizona
22 Department of Corrections, Arizona State
23 Prison – Florence Complex,

24 Respondent.

No. 3:12-cv-08110-RCB

**Motion to Alter or Amend Judgment
Pursuant to Rule 59(e) of the Federal
Rules of Civil Procedure**

25 Pursuant to Rule 59(e) of the Federal Rules of Civil Procedure, Rule 11 of the
26 Rules Governing Section 2254 Cases, and *United States v. Asrar*, 116 F.3d 1268 (9th Cir.
1997), Petitioner Daniel Wayne Cook respectfully asks this Court to certify its resolution
of his Petition for a Writ of Habeas Corpus (ECF No. 1) for appeal. This Court may alter
or amend its judgment if it has committed clear error. *See Duarte v. Bardales*, 526 F.3d
563, 567 (9th Cir. 2008) (*quoting Zimmerman v. City of Oakland*, 255 F.3d 734, 740 (9th
Cir. 2001)). And with respect to habeas claims denied on procedural grounds, a certificate
of appealability should issue if “jurists of reason would find it debatable whether the
petition states a valid claim of the denial of a constitutional right and that jurists of reason

1 would find it debatable whether the district court was correct in its procedural ruling.”
2 *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Because this Court’s dismissal of Cook’s
3 petition satisfies the *Slack* standard, this Court should certify its ruling for appeal. It
4 should accordingly amend its order of July 9, 2012 (ECF No. 5), to provide that its
5 dismissal is certified for appeal as required by 28 U.S.C. § 2253(c)(3).

6 RESPECTFULLY SUBMITTED this 6th day of August, 2012.

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Certificate of Service

I hereby certify that on August 6, 2012, I electronically transmitted the foregoing to the Clerk's Office using the ECF system for filing. I certify that all participants in the case are registered CM/ECF users and that service of this document will be accomplished by the CM/ECF system.

s/Michael J. Meehan