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

TEODORO SEVERIANO ALCARAZ,

Petitioner,

No. 2:05-cv-01597 LKK KJN P

vs.

G.J. GIURBINO, Warden,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding without counsel and in forma pauperis in this habeas corpus action filed pursuant to 28 U.S.C. § 2254. This action was reassigned to the undersigned on February 9, 2010.¹ On March 16, 2010, the district judge denied petitioner’s motion to stay these proceedings. On April 12, 2010, petitioner moved for an extension of time within which to file an appeal of the district judge’s order.

An appeal from this court to the Ninth Circuit Court of Appeals may be taken by filing a notice of appeal with the District Clerk of Court within thirty days after entry of the

_____ ¹ This action is referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B), Local General Order No. 262, and E.D. Cal. L.R. (“Local Rule”) 302.


1 challenged order. Rules 3(a), and 4(a)(1)(A), Federal Rules of Appellate Procedure.² “The
2 district court may extend the time to file a notice of appeal if: (I) a party so moves no later than
3 30 days after the time prescribed by this Rule 4(a) expires; and (ii) . . . that party shows excusable
4 neglect or good cause.” *Id.*, Rule 4(a)(5)(A). However, “[n]o extension under this Rule 4(a)(5)
5 may exceed 30 days after the prescribed time or 14 days after the date when the order granting
6 the motion is entered, whichever is later.” *Id.*, Rule 4(a)(5)(C).

7 Petitioner timely filed his request for extension of time twenty-seven days after
8 entry of the challenged order. Dkt. No. 47. Petitioner’s request that the deadline for filing his
9 appeal be extended to May 14, 2010 is within the thirty-day extension period authorized by the
10 Federal Rules of Appellate Procedure. Petitioner has demonstrated good cause for his request,
11 pursuant to his declaration that his place of incarceration has been subject to “several institutional
12 lockdowns” and staff shortages, and that he will not be allowed access to the law library absent
13 presentation of this order. *Id.* at 2.

14 For the foregoing reasons, petitioner’s motion for extension of time within which
15 to appeal this court’s order filed March 16, 2010 is extended to, and including, Friday, May 14,
16 2010.

17 SO ORDERED.

18 DATED: April 21, 2010

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22 KENDALL J. NEWMAN
23 UNITED STATES MAGISTRATE JUDGE

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² While a timely-made motion may be filed *ex parte*, Rule 4(a)(5)(B), petitioner has served his request upon respondent (Dkt. No. 47, at 3).