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8 IN THE UNITED STATES DISTRICT COURT

## 9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 TEODORO SEVERIANO ALCARAZ,

11 Petitioner,

No. 2:05-cv-1597 LKK KJN P

12 vs.

13 G.J. GIURBINO,

14 Respondent.

ORDER

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16 Petitioner has timely requested a thirty-day extension of time within which to file  
17 an appeal of this court's order filed March 16, 2010, which denied petitioner's request to stay his  
18 petition for writ of habeas corpus pending exhaustion of five newly discovered claims. See 28  
19 U.S.C. § 1296(b), and Federal Rules of Appellate Procedure ("Fed. R. App. P."), Rule 4(a)(1)(A)  
20 (notice of appeal must be filed within 30 days after entry of judgment or order); see also Rule  
21 4(a)(5)(C) (timely request for extension of time to file notice of appeal may extend the deadline  
22 by no more than 30 days). Petitioner states that the extension of time is necessary due to  
23 institutional lockdowns, staff shortages and reduced access to the law library. For good cause  
24 shown, the request will be granted.

25 Petitioner also requests a certificate of appealability in support of his anticipated  
26 appeal. A certificate of appealability may issue under 28 U.S.C. § 2253 "only if the applicant has

1 made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The  
2 court must either issue a certificate of appealability indicating which issues satisfy the required  
3 showing, or state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).

4 This court properly found that petitioner failed to demonstrate good cause for his  
5 failure earlier to identify and exhaust his new claims. See Magistrate Judge’s Findings and  
6 Recommendations, filed December 8, 2009 (Docket No. 38), and Order Adopting Findings and  
7 Recommendations, filed March 16, 2010 (Docket No. 46). Petitioner has therefore not made a  
8 substantial showing of the denial of a constitutional right.


9 Accordingly, a certificate of appealability shall not issue.

10 Good cause appearing, IT IS HEREBY ORDERED that:

11 1. Petitioner’s April 12, 2010 request for extension of time is granted; and

12 2. Petitioner may file a notice of appeal on or before May 14, 2010.

13 DATED: April 23, 2010.

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16 LAWRENCE K. KARLTON  
17 SENIOR JUDGE  
18 UNITED STATES DISTRICT COURT  
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