

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RUBEN CANINI,

Petitioner,

v.

UNITED STATES OF AMERICA, et
al.,

Respondents.

No. 17-cv-1220 (NLH)

MEMORANDUM AND
ORDER

IT APPEARING THAT:

1. On July 7, 2017, the Court entered an order dismissing Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 for lack of jurisdiction. See ECF No. 6.

2. The time for filing a Notice of Appeal pursuant to Federal Rule of Appellate Procedure 4 expired on September 5, 2017. See Fed. R. App. P. 4(a)(1)(B) (providing for sixty days in which to file the notice when the United States is a party).

3. Petitioner filed on September 21, 2017, a Motion for Extension of Time to File a Notice of Appeal pursuant to Federal Rule of Appellate Procedure 4(a)(5)(A), because Petitioner was unexpectedly transferred to another federal prison and he did not receive his property and legal materials relevant to this matter until September 13, 2017. See ECF No. 7 at 1.

4. A district court may grant an extension of time in which to file a notice of appeal if the movant requests such

relief within 30 days after the time for filing the notice of appeal has expired and the movant shows good cause for the failure to timely file. See Fed. R. App. P. 4(a)(5)(A)(i) & (ii).

5. Here, Petitioner filed his motion within thirty days after the time for filing a notice of appeal expired and demonstrated good cause due to his lack of legal materials.¹

IT IS therefore on this 18th day of January, 2018,

ORDERED that the Clerk of the Court shall make a new and separate entry marking this matter RE-OPENED; and it is further

ORDERED that the Motion for Extension of Time to File Notice of Appeal, ECF No. 7, is GRANTED; and it is further

¹ Prison conditions, including lack of access to legal materials and the law library, may constitute good cause for the purpose of Rule 4(a). See, e.g., Levesque v. Clinton County, 2014 WL 2090803, at *2 (N.D.N.Y. May 19, 2014) (“[C]ourts have found that difficulties frequently encountered by inmates, such as prison transfers, confinement in segregated housing units, and/or limited access to legal materials, especially when considered in light of their pro se status, constitute ‘good cause’ for purposes of Rule 4(a)(5).”); Jones v. Walsh, 2008 WL 586270, at *1 (S.D.N.Y. Mar. 4, 2008) (prisoner's inability to access law library constitutes good cause for purposes of Rule 4); Harris v. Cockrell, 2003 WL 21500397, at *2 (N.D. Tex. Apr. 9, 2003) (holding that “good cause” is shown where prisoner lacked access to legal materials “due to circumstances beyond his control”).

ORDERED that, Petitioner shall have fourteen (14) days² from the entry of this order in which to file a notice of appeal; and it is further

ORDERED that the Clerk of the Court shall serve Plaintiff with copies of this Order via regular mail; and it is finally

ORDERED that the Clerk shall again mark this case CLOSED.

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.

² The maximum extension permitted by the Federal Rules of Appellate Procedure in this circumstance is fourteen days. See Fed. R. App. P. 4(a)(5)(C).