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Appendix A:

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 22-1325

Juan Amaya Lozano

Petitioner - Appellant

v.

Fredrick Entzel, Warden FCI Pekin

Respondent - Appellee

Appeal from U.S. District Court for the Southern District of Iowa - Central
(4:21-cv-00099-RP)

JUDGMENT

Before LOKEN, SHEPHERD, and GRASZ, Circuit Judges.

This appeal comes before the court on appellant's application for a certificate of appealability. The court has carefully reviewed the original file of the district court, and the application for a certificate of appealability is denied. The appeal is dismissed.

June 16, 2022

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

Appendix A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

JUAN A. LOZANO, Petitioner, v. FREDRICK ENTZEL, Warden FCI Pekin, Respondent.	4:21-cv-00099-RP ORDER DENYING MOTION TO REOPEN AND GRANTING MOTION FOR EXTENSION OF TIME TO APPEAL
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On December 1, 2021, this Court granted Respondent's motion to dismiss this petition for writ of habeas corpus under 28 U.S.C. § 2254 as untimely. ECF No. 13. Petitioner Juan A. Lozano now seeks to alter or amend the judgment under Federal Rule of Civil Procedure 59(e). ECF No. 15. He also seeks an extension of time to file a notice of appeal. ECF No. 16.

"Rule 59(e) motions serve the limited function of correcting 'manifest errors of law or fact or to present newly discovered evidence.' 'Such motions cannot be used to introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to entry of judgment.'" *Holder v. United States*, 721 F.3d 979, 986 (8th Cir. 2013) (quotation marks and citations omitted). Lozano fails to demonstrate any manifest error of law or fact, and he does not present any newly discovered evidence. Rather, he reasserts the arguments he made in his previous filings. Because Lozano has failed to state any meritorious basis for altering or amending the judgment pursuant to Federal Rule of Civil Procedure 59(e),


IT IS ORDERED that Juan A. Lozano's motion to alter or amend, ECF No. 15, is **DENIED**.

IT IS FURTHER ORDERED that Lozano's request to extend the time for filing an appeal, ECF No. 16, is **GRANTED**. The time for filing an appeal is generally 30 days. *See* Fed. R. App. P. 4(a)(1); *see also* Fed. R. App. P. 4(a)(4)(iv) (time for appeal begins to run from entry of order disposing of Rule 59 motion to alter or amend). That time may be extended by an additional thirty days if the appealing party show excusable neglect or good cause. Fed. R. App. P. 4(a)(5)(A)(ii). Lozano states he is currently in the process of transferring to another institution. ECF No. 16 at 2. Based on this representation, the Court finds Lozano has demonstrated good cause to extend the time to appeal. Any appeal must be filed within 60 days of this order.

For the reasons given in the Court's prior order, a certificate of appealability continues to be denied.

IT IS SO ORDERED.

Dated this ___11th___ day of January 2022.


ROBERT W. PRATT, Judge
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

Juan Amaya Lozano

CIVIL NUMBER: 4:21-cv-00099-RP

Petitioner,

v.

JUDGMENT IN A CIVIL CASE

Fredrick Entzel
Warden FCI Pekin

Respondent,

☒ **DECISION BY COURT.** This action came before the Court. The matter has been fully submitted and a decision has been rendered.

IT IS ORDERED AND ADJUDGED:

Respondent's Motion to Dismiss is granted. Judgment entered in favor of respondent against petitioner. Case closed. Certificate of appealability is denied.

Date: December 3, 2021

CLERK, U.S. DISTRICT COURT

/s/ K. Watson

By: Deputy Clerk

**Additional material
from this filing is
available in the
Clerk's Office.**