

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN ERIC BENNETT,

Petitioner,

Civil No. 4:16-CV-11253

HON. TERRENCE G. BERG

v.

JOHN CHRISTIANSEN,

Respondent,

OPINION AND ORDER

- (1) GRANTING MOTION TO REOPEN THE PETITION FOR WRIT OF HABEAS CORPUS AND ORDERING THE CLERK OF THE COURT TO REOPEN THE CASE TO THE COURT'S ACTIVE DOCKET;**
- (2) AMENDING THE CAPTION;**
- (3) GRANTING THE MOTION TO AMEND PETITION FOR WRIT OF HABEAS CORPUS;**
- (4) ORDERING THAT THE AMENDED PETITION, BRIEF IN-SUPPORT OF THE PETITION, EXHIBITS, AND APPENDIX (ECF NOS. 8, 9, 10, 11) BE SERVED UPON THE RESPONDENT AND THE MICHIGAN ATTORNEY GENERAL; AND,**
- (5) DIRECTING RESPONDENT TO FILE AN ANSWER AND THE RULE 5 MATERIALS WITHIN 180 DAYS.**

On April 1, 2016, Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 1. The Court held the peti-

tion in abeyance to permit petitioner to return to the state courts to exhaust additional claims. ECF No. 6.

On October 29, 2017, Petitioner filed a motion to reopen the case and to amend the petition. Federal courts have the power to order that a habeas petition be reinstated upon timely request by a habeas petitioner, following the exhaustion of state court remedies. *See, e.g., Rodriguez v. Jones*, 625 F. Supp. 2d 552, 559 (E.D. Mich. 2009). Pursuant to this power, the Court grants Petitioner's Motion to Reopen.

The Court also orders that the caption in this case be amended to reflect that the proper respondent is John Christiansen, the warden of the prison where petitioner is incarcerated. *Edwards Johns*, 450 F. Supp. 2d 755, 757 (E.D. Mich. 2006); Rule 2(a), Rules Governing 28 U.S.C. § 2254. Petitioner's Motion to Amend his Petition should be granted because it advances claims that may have arguable merit. *Braden v. United States*, 817 F.3d 926, 930 (6th Cir. 2016).

The Clerk of the Court shall serve a copy of the amended petition for writ of habeas corpus, the brief in support of the amended petition, the exhibits and appendix in support of the amended petition (ECF Nos. 8, 9, 10, 11) and a copy of this Order on Respondent and on the Attorney

General for the State of Michigan by first class mail as provided in Rule 4 of the Rules Governing § 2254 Cases. *Coffee v. Harry*, No. 04-71209, 2005 WL 1861943, at *2 (E.D. Mich. Aug. 2, 2005). Respondent shall file an answer to amended habeas petition within one hundred and eighty (180) days of the Court's order. *Erwin v. Elo*, 130 F. Supp. 2d 887, 891 (E.D. Mich. 2001); 28 U.S.C. § 2243. Respondent shall provide this Court with the Rule 5 materials at the time that it files its answer. *Griffin v. Rogers*, 308 F.3d 647, 653 (6th Cir. 2002); Rules Governing § 2254 Cases, Rule 5.

Petitioner has forty-five (45) days from the receipt of the answer to file a reply brief, if he so chooses. Rule 5(e) of the Rules Governing § 2254 Cases.

SO ORDERED.

Dated: November 26, 2018 s/Terrence G. Berg

TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that this Order was electronically filed,
and the parties and/or counsel of record were served on
November 26, 2018.

s/A. Chubb

Case Manager