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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOAQUIN RAMON QUIROZ,

1:09-CV-01131 AWI GSA HC

Petitioner,

ORDER GRANTING PETITIONER'S  
MOTION TO SUPPLEMENT TRAVERSE  
[Doc. #55]

v.

KENT CLARK,

ORDER DENYING PETITIONER'S  
MOTION FOR LEAVE TO AMEND  
TRAVERSE  
[Doc. #56]

Respondent.

\_\_\_\_\_  
Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On November 16, 2010, Petitioner filed his traverse in this case. Pursuant to the Court's scheduling order of April 8, 2010, briefing was concluded with the filing of the traverse.

On January 21, 2011, Petitioner filed a motion to supplement his traverse. He seeks leave to supplement his arguments pertaining to Ground One of his petition with a new decision issued on December 20, 2010, by the California Supreme Court in People v. Albillar, 51 Cal.4th 47 (2010). Pursuant to Fed. R. Civ. P. Rule 15(d), on motion, reasonable notice, and just terms, a court may allow a party to serve a supplemental pleading setting out any event that happened after the date of the pleading to be supplemented. In this case, the decision referenced by Petitioner was rendered one month after Petitioner filed his traverse, and Petitioner filed his motion approximately thirty days

1 later. The Court finds the parties will not be prejudiced by allowing the supplement. While the  
2 Court expresses no opinion on the case itself, the supplement will be granted.

3 On May 4, 2011, Petitioner filed a motion for leave to amend his traverse. Pursuant to Fed.  
4 R. Civ. P. Rule 15(c), a party may amend its pleading once as a matter of course within 21 days after  
5 serving it, or in all other cases, with the court's leave and when justice so requires. More than 21  
6 days have passed, so leave of court is required. In this case, the Court finds that the interests of  
7 justice would not be served by amendment at this late date. The traverse was filed nearly six months  
8 ago and Petitioner fails to show good cause why the traverse should be amended.

9 Accordingly, IT IS HEREBY ORDERED:

10 1) Petitioner's motion to supplement the traverse is GRANTED; and

11 2) Petitioner's motion for leave to amend the traverse is DENIED.

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13 IT IS SO ORDERED.

14 **Dated: May 10, 2011**

**/s/ Gary S. Austin**  
UNITED STATES MAGISTRATE JUDGE

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