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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER WILLIAMS,

1:10-cv-00410-DLB (HC)

Petitioner,

ORDER VACATING ORDER TO RESPOND
ISSUED MARCH 15, 2010, AND GRANTING
PETITIONER OPPORTUNITY TO SUBMIT
SECOND AMENDED PETITION

v.

RICK HILL, Warden

[Docs. 5, 10]

Respondent.

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

Petitioner filed the instant petition for writ of habeas corpus on March 8, 2010. (Court Doc. 1.) On March 15, 2010, the Court directed Respondent to file a response to the petition. (Court Doc. 5.)

On April 28, 2010, Petitioner filed a first amended petition. (Court Doc. 10.) A petitioner may amend a petition for writ of habeas corpus once “as a matter of course,” and without leave of Court, before a response has been filed under Federal Rule of Civil Procedure 15(a), as applied to habeas corpus actions pursuant to 28 U.S.C. § 2242 and Rule 11 of the Rules Governing Section 2254 Cases. Calderon v. United States District Court (Thomas), 144 F.3d 618, 620 (9th Cir. 1998); Bonn v. Calderon, 59 F.3d 815, 845 (9th Cir. 1995). Leave of Court is required for all other amendments. Rule Civ. P. 15(a).

1 In this instance, Respondent has not yet filed a response to the petition and Petitioner may
2 amend the petition as a matter of right. In the amended petition, Petitioner states “For purposes of
3 this amended petition for writ of habeas corpus petitioner adopts the facts set forth in the opening
4 brief.” (Amended Petition, at 1.) However, Petitioner is advised that pursuant to Local Rule
5 220, the amended petition must be complete in itself without reference to the prior or superseded
6 pleading. In light of Local Rule 220, the Court will grant Petitioner the opportunity to submit a
7 second amended petition that is complete in itself without reference to prior petition.

8 Based on the foregoing, it is HEREBY ORDERED that:

- 9 1. The Court’s March 15, 2010, order to respond is VACATED;
- 10 2. Within thirty (30) days from the date of service of this order, Petitioner may file a
11 second amended petition; and
- 12 3. Failure to comply with this order will result in the action proceeding on
13 Petitioner’s first amended petition filed April 28, 2010. (Court Doc. 10.)

14
15 IT IS SO ORDERED.

16 **Dated: May 6, 2010**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE