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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT LEE GRIFFIN,
Petitioner,
v.
JOEL D. MARTINEZ,
Respondent.

Case No. 1:17-cv-01137-DAD-JDP
ORDER EXTENDING THE DEADLINE TO
SHOW CAUSE
RESPONSE DUE WITHIN 60 DAYS
ECF No. 31

Petitioner Robert Lee Griffin, a state prisoner without counsel, seeks a writ of habeas corpus under 28 U.S.C. § 2254. ECF No. 30. On April 17, 2020, we issued an order to show cause why the amended petition should not be dismissed as untimely. ECF No. 31. In his response to our order to show cause, petitioner stated that he misunderstood the habeas requirements for timely filing his amended petition under *Kelly v. Small*, 315 F.3d 1063, 1070-71 (9th Cir. 2003). ECF No. 32. On April 29, 2020, we issued an informational order explaining the requirements for timely filing under *Kelly*. ECF No. 33. On May 22, 2020, petitioner responded to our informational order, stating that he is unable to conduct legal research in support of his response to our order to show cause due to COVID-19 law library restrictions.¹ ECF No. 34. We

¹ Petitioner also requests to either proceed with only his four claims of trial error in his original petition or that he be granted to leave to proceed with his amended petition. ECF No. 34. Because petitioner’s amended petition contains both exhausted and unexhausted claims, he must show that either his new claims are timely under AEDPA’s statute of limitations or that his new

1 will construe petitioner's response as a motion for extension of time. For good cause shown, we
2 will grant petitioner an additional 60 days to respond to our order to show cause. His response is
3 now due July 22, 2020.

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5 IT IS SO ORDERED.

6 Dated: June 2, 2020


UNITED STATES MAGISTRATE JUDGE

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claims "relate back" to his original claims. *See King v. Ryan*, 564 F.3d 1133, 1140-41 (9th Cir. 2009). Petitioner has not met either of these requirements. Therefore, in his response to our order to show cause, petitioner must clearly state whether he wishes to proceed with his original four claims only, or, in the alternative, he must demonstrate that his new claims are timely under *Kelly*. If petitioner seeks to proceed with his amended petition and fails to demonstrate that he meets the requirements of *Kelly*, he will proceed with his original petition.