

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN PAUL SCHATZ,
Petitioner,
v.
SHAWN HATTON,
Respondent.

No. 2:16-cv-02911 JAM GGH

ORDER

On February 24, 2017, Respondent filed a Motion to Dismiss the petition filed by Petitioner, who is appearing in pro se. ECF No. 8. On March 20, 2017 Petitioner sought an extension of time to file a response to that Motion, ECF No. 11, which request was granted on March 24, 2017 extending Petitioner’s time to April 24, 2017. ECF No. 12. On April 24, 2017 Petitioner filed an Opposition Memorandum. ECF No. 13. On May 4, 2017 Respondent requested addition time to file a Reply, ECF No. 14, which request was granted on May 8, 2017. ECF No. 15. On June 7, 2017 Respondent filed his Reply. ECF No. 16. The matter was then placed under submission for review and decision by this court.

On July 7, 2017 Petitioner requested an extension of time to August 7, 2017 to file an additional Response. ECF No. 17. The Federal Rule of Civil Procedure 7,¹ however, recognizes

¹ Where feasible and permissible, the Federal Rules of Civil Procedure apply to habeas corpus actions. Fed.R.Civ.P. 81(a)(4).

1 only a complaint (petition in this case), an answer, and a reply as permissible pleadings. Rule 12
2 allows a motion to be made in lieu of an answer. In this case Respondent filed the Motion to
3 Dismiss in lieu of the Answer which permitted Petitioner to Oppose, which he did in his
4 Opposition Memorandum found in ECF No. 13, and Respondent one opportunity to Reply to the
5 Opposition, which he did in ECF No. 16. On June 7, 2017 Respondent filed a Reply to that
6 Opposition. ECF No. 17. Under Eastern District of California Local Rule No. 230, this
7 limitation on Motion briefing is made clear: there may be a Motion, an Opposition and a Reply.
8 There is no additional pleading to be recognized until after the court resolves the pending, fully
9 briefed Motion.

10 Petitioner has now requested an extension of time to permit him to respond to
11 respondent's Reply Memorandum. ECF No. 17. In light of the foregoing IT IS HEREBY
12 ORDERED that:

- 13 1. Petitioner's request for an extension of time to file an additional Memorandum is
14 DENIED;
- 15 2. The matter is now under submission and no further briefing will be permitted.

16 **IT IS SO ORDERED.**

17 Dated: July 19, 2017

18 /s/ Gregory G. Hollows
19 UNITED STATES MAGISTRATE JUDGE
20
21
22
23
24
25
26
27
28