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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH G. MCCARTY,

Petitioner,

v.

SCOTT KERNAN,

Respondent.

No. 2:18-cv-0037 KJN P

ORDER

Petitioner is a state prisoner, proceeding pro se, with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 1, 2018, petitioner filed a one-page document entitled, “Request to Amend.” (ECF No. 17.) Petitioner seeks to “add some case laws and changes to petition which will hopefully help the court to understand [his] unique case.” (Id.)

Petitioner is advised that court permission is not required to amend once as a matter of right before respondent files a responsive pleading. Fed. R. Civ. P. 15(a).¹ If petitioner filed an

¹ Rule 15(a) provides:

(a) Amendments Before Trial.

(1) Amending as a Matter of Course. A party may amend its pleading once as a matter of course within:

(A) 21 days after serving it, or

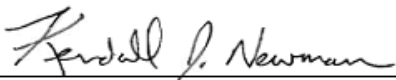
(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) Other Amendments. In all other cases, a party may amend its pleading only with the

1 amended petition that meets the requirements of Rule 15(a)(1), he is not required to file a motion.
2 However, if he does not comply with the requirements of Rule 15(a)(1), and must amend subject
3 to Rule 15(a)(2), petitioner must file a motion to amend and append his proposed amended
4 petition for consideration. Because respondent has not yet filed a responsive pleading,
5 petitioner's motion is premature, and is denied without prejudice.

6 Accordingly, IT IS HEREBY ORDERED that petitioner's motion to amend (ECF No. 17)
7 is denied without prejudice.

8 Dated: June 21, 2018

9 
10 KENDALL J. NEWMAN
11 UNITED STATES MAGISTRATE JUDGE

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26 _____
27 opposing party's written consent or the court's leave. The court should freely give leave when
28 justice so requires.

Fed. R. Civ. P. 15(a).