

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

| | | |
|------------------------|---|--------------------------------------|
| ERIC LOCKHART, |) | No. C 08-2935 JSW (PR) |
| |) | |
| Petitioner, |) | ORDER LIFTING STAY; GRANTING |
| |) | LEAVE TO FILE AMENDED |
| vs. |) | PETITION AND MOTIONS; TO SHOW |
| |) | CAUSE REGARDING NEW CLAIM; |
| TONY HEDGPETH, Warden, |) | INSTRUCTIONS TO CLERK |
| |) | |
| Respondent. |) | |
| |) | |
| _____ |) | (Docket Nos. 24-27) |

Petitioner, a prisoner of the State of California, has filed a habeas corpus petition pursuant to 28 U.S.C. § 2254. Respondent was ordered to show cause why the petition, setting forth eleven claims, should not be granted. Respondent filed an answer to the petition, and petitioner filed a traverse. Petitioner was then granted a stay in order to exhaust his additional claims in federal court.

He has filed a motion to lift the stay, explaining that his new claim has now been exhausted, and a motion for leave to file an amended petition that includes his newly-exhausted claim. Good cause appearing, the motion to lift the stay and the motion for leave to file an amended petition are GRANTED. (Docket Nos. 26 and 27.) The stay is LIFTED. The motion for an extension of time in which to file the motion to lift the stay is also GRANTED. (Docket No. 24.) The motion for relief from judgment is DENIED as

unnecessary because there has been no judgment in this case. (Docket No. 25.)


Respondent shall file with the Court and serve on Petitioner, within **sixty (60)** days of the issuance of this order, a supplemental answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted based on Petitioner's newly exhausted claim – the twelfth claim in the amended petition. Respondent shall file with the supplemental answer and serve on Petitioner a copy of any new portion of the state trial record that have been transcribed previously and that are relevant to a determination of the issues presented by the amended petition. If Petitioner wishes to respond to the supplemental answer, he shall do so by filing a supplemental traverse with the Court and serving it on Respondent within **thirty (30)** days of the date the answer is filed.

Alternatively, Respondent may file a motion to dismiss the newly-exhausted claim on procedural grounds. If Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an opposition or statement of non-opposition within **thirty (30)** days of the date the motion is filed, and Respondent shall file with the Court and serve on Petitioner a reply within **fifteen (15)** days the date the opposition is filed.

The Clerk shall lift the stay, file the amended complaint, and administratively reopen the file.

IT IS SO ORDERED.

DATED: April 9, 2012


JEFFREYS. WHITE
United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 ERIC LOCKHART,
6

7 Plaintiff,
8

9 v.
10

11 TONY HEDGPETH et al,
12

13 Defendant.
14 _____/

Case Number: CV08-02935 JSW

CERTIFICATE OF SERVICE

15 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
16 Court, Northern District of California.

17 That on April 9, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said
18 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
19 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
20 receptacle located in the Clerk's office.
21

22 Eric Lockhart V-17246
23 P.O. Box 290066
24 Represa, CA 95671-0066
25

26 Dated: April 9, 2012
27

Jennifer Ottolini

Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk
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