

United States District Court  
For the Northern District of California

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

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

ELVIS ANTHONY MURCIA,	)	No. C 09-3866 MMC (PR)
Petitioner,	)	<b>ORDER GRANTING MOTION TO LIFT STAY; DIRECTING CLERK TO ADMINISTRATIVELY REOPEN ACTION; DIRECTING PETITIONER TO FILE AMENDED PETITION</b>
v.	)	
JOHN HAVILAND, Warden,	)	
Respondent.	)	
_____	)	<b>(Docket No. 7)</b>

On August 24, 2009, petitioner, a California prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By order filed September 4, 2009, the Court granted petitioner’s request to stay the petition while he returned to state court to exhaust his unexhausted claims. Additionally, the Court directed the Clerk of the Court to administratively close the case while the stay remained in effect. Now pending before the Court is petitioner’s request to reopen the case on the ground his claims are now exhausted. Petitioner also asks the Court to grant him leave to file an amended petition.

Good cause appearing, the Court orders as follows:

1. Petitioner’s request to reopen the instant action is hereby GRANTED.
2. The stay entered herein on September 4, 2009 is hereby LIFTED and the Clerk is directed to ADMINISTRATIVELY REOPEN the instant action.
3. Within **thirty (30)** days of the date this order is filed, petitioner shall file an amended petition, using the Court’s form petition, containing all of his exhausted claims. A

1 copy of the form petition along with instructions for completing it are provided to petitioner  
2 herewith. The amended petition must include the caption and civil case number used in this  
3 order, No. C 09-3866 MMC (PR), and must include the words AMENDED PETITION on  
4 the first page.

5 **The amended petition supersedes the initial petition and may not incorporate any**  
6 **part of it by reference. Petitioner must include in the amended petition all the claims he**  
7 **wishes to present, and any attachments he wishes the Court to consider.**

8 This order terminates Docket No. 7.

9 IT IS SO ORDERED.

10 DATED: May 20, 2011

11   
12 MAXINE M. CHESNEY  
13 United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28