

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ALEXANDER BALBUENA,

No. C 11-0228 RS (PR)

Petitioner,

**ORDER RE: APPLICATION FOR
WRITTEN INDICATION**

v.

MARTIN BITER, Warden, and
THE CALIFORNIA ATTORNEY
GENERAL,

Respondents.

_____ /

This closed federal habeas corpus action is on appeal. Petitioner asked the Ninth Circuit Court of Appeals to stay appellate proceedings and remand the matter to this Court to allow petitioner to amend his petition so that he can present a new federal habeas claim. The Court of Appeals denied the motion to stay “without prejudice to filing a renewed motion accompanied by a written indication that the district court is willing to entertain the motion.” (No. 12-16414, Docket No. 21.)


Petitioner asks this Court (Docket No. 26) for a written indication of its willingness to entertain a motion to amend the petition to add a new federal habeas claim. The Court is

1 willing to entertain such a motion because it might raise “a substantial issue.” Fed. R. App.
2 P. 12.1. If he wishes to pursue the matter in this Court, petitioner first must obtain an order
3 from the Court of Appeals staying appellate proceedings and remanding the matter to the
4 district court.

5 **In indicating its willingness to entertain the motion, the Court makes no**
6 **comment on the merits of such a motion, or that it is inclined to grant or deny it.** Also,
7 the Court is willing to consider only whether to allow amendment as to the one new claim,
8 that is, that the *Miranda* warnings were constitutionally inadequate. No other claim(s) will
9 be considered. The Clerk shall terminate Docket No. 26.

10 **IT IS SO ORDERED.**

11 DATED: November 7, 2013


RICHARD SEEBORG
United States District Judge

28