

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 ANNETTE CHRISTINA CHAVEZ,
4 Petitioner,
5 v.
6 WARDEN GARCIA, Warden,
7 Respondent.
8

Case No. [20-cv-04432-YGR](#) (PR)

**SECOND ORDER DIRECTING
RESPONDENT TO SHOW CAUSE
WHY THE AMENDED PETITION
SHOULD NOT BE GRANTED**

9 This federal habeas corpus action was dismissed because Petitioner failed to respond to
10 notices from the Clerk of the Court to file a timely completed habeas corpus petition form along
11 with an application to proceed *in forma pauperis* (“IFP”). She then filed her completed habeas
12 corpus petition form and perfected her IFP application. *See* Dkts. 12, 13. Prison records
13 confirmed that Petitioner’s delay in filing such documents was caused by a lack of notice because
14 the prison “d[id] not have any record of receiving such correspondence from the courts.” Dkt. 13
15 at 5. In an Order dated March 2, 2021, the Court construed Petitioner’s filings as a motion to
16 reopen the instant action, granted the motion, and reopened the instant action. Dkt. 17. The Court
17 directed Respondent to show cause why the petition should not be granted. *See id.* To date, no
18 answer to the petition has been filed. Instead, Clerk’s Office personnel has been informed that due
19 to the ongoing pandemic and newly installed procedures, the United States Attorney’s Office did
20 not receive notice of the Court’s March 2, 2021 Order. In any event, on May 14, 2021, Petitioner
21 has filed a new petition, which Court construes as her “Amended Petition.” Dkt. 18. Because no
22 answer has been filed, the Court grants Petitioner leave to file an Amended Petition.

23 It does not appear from the face of the Amended Petition that it is without merit. Good
24 cause appearing, the Court hereby issues the following orders:

- 25 1. The Court grants Petitioner leave to file an Amended Petition. The Clerk shall
26 docket the new petition as her “Amended Petition” and mark it as filed on May 14, 2021.
- 27 2. The Clerk shall serve a copy of this Order and the Amended Petition and all at
28 attachments thereto upon Respondent and Respondent’s attorney, the United States Attorney for

1 the Northern District of California, at the following email addresses: (1) usacan.ecf@usdoj.gov;
2 (2) sara.winslow@usdoj.gov; and (3) kathy.terry@usdoj.gov. The Amended Petition and the
3 exhibits thereto are available via the Electronic Case Filing System for the Northern District of
4 California. The Clerk shall serve by mail a copy of this order on Petitioner.

5 3. Respondent shall file with this Court and serve upon Petitioner, no later than **July**
6 **26, 2021**, an Answer responding to the allegations in the Amended Petition and showing cause
7 why a writ of habeas corpus should not be issued. Respondent shall file with the answer and serve
8 on Petitioner a copy of all documents that are relevant to a determination of the issues presented.

9 4. If Petitioner wishes to respond to the Answer, Petitioner shall do so by filing a
10 Traverse with the Court and serving it on Respondent within **sixty (60) days** of Petitioner's receipt
11 of the Answer. Should Petitioner fail to do so, the Amended Petition will be deemed submitted
12 and ready for decision **sixty (60) days** after the date Petitioner is served with the Answer.

13 5. It is Petitioner's responsibility to prosecute this case. Petitioner must keep the
14 Court and Respondent informed of any change of address and must comply with the Court's
15 orders in a timely fashion. Pursuant to Northern District Local Rule 3-11 a party proceeding *pro*
16 *se* whose address changes while an action is pending must promptly file a notice of change of
17 address specifying the new address. *See* L.R. 3-11(a). The Court may dismiss a *pro se* action
18 without prejudice when: (1) mail directed to the *pro se* party by the Court has been returned to the
19 Court as not deliverable, and (2) the Court fails to receive within sixty days of this return a written
20 communication from the *pro se* party indicating a current address. *See* L.R. 3-11(b); *see also*
21 *Martinez v. Johnson*, 104 F.3d 769, 772 (5th Cir. 1997) (Rule 41(b) applicable in habeas cases).
22 Petitioner must also serve on Respondent's counsel all communications with the Court by mailing
23 a true copy of the document to Respondent's counsel.

24 6. Upon a showing of good cause, requests for a reasonable extension of time will be
25 granted provided they are filed on or before the deadline they seek to extend.

26 IT IS SO ORDERED.

27 Dated: June 4, 2021

28 
JUDGE YVONNE GONZALEZ ROGERS
United States District Judge