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United States District Court
For the Northern District of California

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

MARIO RENE PEREZ,)	No. C 10-05947 EJD (PR)
)	
Petitioner,)	ORDER DIRECTING PETITIONER TO
)	FILE A SECOND AMENDED
vs.)	PETITION
)	
K. ALLISON, Warden,)	
)	
Respondent.)	
_____)	

Petitioner, a California state prisoner, filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254, challenging his state conviction. On April 20, 2011, the Court dismissed the petition with leave to amend claim 3 of the petition. (Docket No. 4.) In the alternative, Petitioner was given leave to file notice to strike claim 3 from the petition and proceed solely with claims 1 and 2. (Id. at 2.)

On June 6, 2011, Petitioner was granted leave to file an amended petition to amend claim 3 of his original petition. (See Docket No. 9.) In an initial review, the Court found that claim 3, which alleged that “counts 1 and 4 are time barred by the statute of limitations,” failed to state a claim because Petitioner did not allege a violation of a federal or constitutional right. (Docket No. 4 at 2.) Petitioner was directed to file an amended petition to remedy the deficiency of claim 3. (Id.)

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Petitioner was directed to “include all claims in the amended petition that he wishes to raise in this action, *i.e.*, claims 1 and 2.”

On May 18, 2011, Petitioner filed a two page, handwritten “Amended Petition,” in which he states that he “respectfully ask[s] that Count 3 be added to the Petition for Writ of Habeas Corpus.” (Docket No. 8 at 1.) The information provided in this two page document is insufficient to state cognizable claims as to either claims 1 and 2 from the original petition or to claim 3, which remains unclear.

In the interest of justice, the Court will dismiss the amended petition with leave to amend. **Petitioner must use the court’s form petition, and provide all the information required therein** with respect to the state conviction that he is challenging and all the claims he wishes to raise. The second amended petition must include the caption and civil case number used in this order, No. C 10-05947 EJD (PR), and must include the words **SECOND AMENDED PETITION** on the first page. The second amended petition must be filed **no later than thirty (30) days from the date this order is filed.**

Failure to file a timely response in accordance with this order will result in the dismissal of this action without prejudice and without further notice to Petitioner.

The Clerk is instructed to include two copies of the court’s form petition to Petitioner with a copy of this order.

DATED: June 23, 2011 _____


EDWARD J. DAVILA
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

MARIO RENE PEREZ,
Petitioner,

Case Number: CV10-05947 EJD

CERTIFICATE OF SERVICE

v.

K ALLISON, Warden,
Respondent.

_____/

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

That on 6/24/2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Mario Rene Perez G-37655
California Substance Treatment Facility and State Prison
P. O. Box 5246
Corcoran, CA 93212

Dated: 6/24/2011

Richard W. Wieking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk