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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

CHRISTINA L. ALEXANDER,

Petitioner,

v.

D.K. JOHNSON, Warden,

Respondent.

Civil No. 12cv1401 BEN (WMc)

**ORDER RE: MOTION FOR LEAVE  
TO FILE AMENDED PETITION**

**[ECF No. 4]**

**I. INTRODUCTION AND PROCEDURAL HISTORY**

On July 16, 2012, the Honorable Roger T. Benitez directed the Clerk of Court to refile a duplicative Petition for Writ of Habeas Corpus in Case No. 12cv1402 in the instant case “as an original Motion to Amend the Petition.” [ECF No. 4 at p. 1.] Petitioner’s filing in Case No. 12cv1402 challenged the same state court conviction as the Petition in the instant case. *Id.* As directed by Judge Benitez, the Court construes the filing in Case No. 12cv1402 as a motion to amend the pending petition. [Id. at p. 2.]

**II. STANDARD**

Federal Rule of Civil Procedure 15(a) provides that a party may amend its complaint once “as a matter of course” before a responsive pleading is served, or at any time within twenty days of service if it requires no response. “Otherwise a party may amend the party’s pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires.” Fed. R. Civ. P. 15 (a).

1 This Court notes that on several occasions, “the Supreme Court has instructed the lower federal  
2 courts to heed carefully the command of Rule 15(a), F[ed]. R. Civ. P., by freely granting leave to amend  
3 when justice so requires.” *DCD Programs, LTD. v. Leighton*, 833 F.2d 183, 186 (9<sup>th</sup> Cir. 1995) (quoting  
4 *Gabrielson v. Montgomery Ward & Co.*, 785 F.2d 762, 765 (9<sup>th</sup> Cir. 1986)) (quoting *Howey v. United*  
5 *States*, 481 F.2d 1187, 1190 (9<sup>th</sup> Cir. 1973)) (citations omitted). “Rule 15's policy of favoring  
6 amendments to pleadings should be applied with ‘extreme liberality.’” *United States v. Webb*, 655 F.2d  
7 977, 979 (9<sup>th</sup> Cir. 1981) (citing *Rosenberg Brothers & Co. v. Arnold*, 283 F.2d 406 (9<sup>th</sup> Cir. 1960) (per  
8 curiam)).

9 **III. DISCUSSION AND ORDER THEREON**

10 No responsive pleading has been served in the instant matter. Fed. R. Civ. P. 15 (a).  
11 Accordingly, the Court **GRANTS** the motion to amend and accepts Document No. 4 on the docket as  
12 Plaintiff’s First Amended Petition in this action. The Clerk of Court is **DIRECTED** to identify the  
13 filing at Document No. 4 in the Case Management / Electronic Case Filing system as the First Amended  
14 Petition for Writ of Habeas Corpus.

15 **IT IS SO ORDERED.**

16 DATED: July 26, 2012

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19 Hon. William McCurine, Jr.  
20 U.S. Magistrate Judge  
21 United States District Court

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