

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION

STANLEY DELORD MARTIN,  
Petitioner,

vs.

Case No.: 3:10cv28/MCR/EMT

WALTER McNEIL,  
Respondent.

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**ORDER**

This matter is before the court on Petitioner's motion for leave to amend his petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 11).

Rule 15(a) of the Federal Rules of Civil Procedure provides, "a party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served . . ." In the instant case, although service of the petition on Respondent has been directed (*see* Doc. 10), Respondent has not yet served a responsive pleading; therefore, Petitioner is entitled to amend the petition.

Accordingly, it is **ORDERED**:

1. Petitioner's motion for leave to amend his habeas petition (Doc. 11) is **GRANTED**.
2. The court's previous order (Doc. 10) directing Respondent to file a response to the original habeas petition is **VACATED**. Respondent shall not respond to the amended petition until ordered to do so by the court.
3. The clerk shall provide Petitioner a petition form for use in habeas cases filed under § 2254. This case number shall be written on the form.
4. Within **SIXTY (60) DAYS** from the date of docketing of this order, Petitioner shall file an amended petition on the court-approved form. Additionally, Petitioner shall provide two (2) service copies of the amended petition, any attachments thereto, and any supporting memorandum.

5. Failure to comply with this order may result in dismissal of this action for failure to comply with an order of the court.

**DONE AND ORDERED** this 31<sup>st</sup> day of March 2010.

*/s/ Elizabeth M. Timothy* \_\_\_\_\_

**ELIZABETH M. TIMOTHY**  
**UNITED STATES MAGISTRATE JUDGE**