

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTHONY LAMAR WILLIAMS,

Petitioner,

Civil No. 2:14-CV-10408
HONORABLE SEAN F. COX
UNITED STATES DISTRICT COURT

v.

SHERMAN CAMPBELL,

Respondent,

**OPINION AND ORDER GRANTING MOTION TO REOPEN HABEAS PETITION,
GRANTING MOTION TO AMEND THE CAPTION, GRANTING THE MOTION TO
AMEND PETITION FOR WRIT OF HABEAS CORPUS, ORDERING THAT THE
AMENDED PETITION BE SERVED UPON THE RESPONDENT AND THE
MICHIGAN ATTORNEY GENERAL, AND ORDER DIRECTING RESPONDENT TO
FILE A SUPPLEMENTAL ANSWER AND ANY ADDITIONAL RULE 5 MATERIALS
IN THIS CASE.**

On September 1, 2014, this Court dismissed the petition for writ of habeas corpus filed by petitioner so that he could exhaust additional claims that he had failed to exhaust in the state court prior to filing his habeas petition. Petitioner has filed a motion to reopen his petition for writ of habeas corpus following the exhaustion of his new claims. Petitioner has also filed a motion to amend his habeas petition. Petitioner has also filed a motion to add a new warden as respondent, which this Court construes as a motion to amend the caption.

The Clerk of the Court is **ORDERED** to reopen this case to the Court's active docket. The Court amends the caption to reflect the name of petitioner's current warden, Sherman Campbell. The Clerk of the Court shall serve a copy of the amended petition for writ of habeas corpus upon Respondent and the Michigan Attorney General's Office by first class mail. Respondent shall file

a supplemental answer to the amended petition and any additional Rule 5 materials within **one hundred twenty (120)** days of the Court's order.

Federal courts have the power to order that a habeas petition be reinstated upon timely request by a habeas petitioner, following the exhaustion of state court remedies. See e.g. *Rodriguez v. Jones*, 625 F. Supp. 2d 552, 559 (E.D. Mich. 2009). Petitioner's claims have been exhausted with the state courts; his petition is now ripe for consideration. Accordingly, the Court will order that the original habeas petition be reopened.

The Court also orders that the caption in this case be amended to reflect that the proper respondent in this case is now Sherman Campbell, the warden of the prison where petitioner is currently incarcerated. See *Edwards Johns*, 450 F. Supp. 2d 755, 757 (E.D. Mich. 2006); *See also* Rule 2(a), 28 foll. U.S.C. § 2254.

The Court grants the motion to amend his habeas petition. The Court permits petitioner to amend his petition, because there is no indication that allowing the amendment would cause any delay to this Court nor is there any evidence of bad faith on petitioner's part in bringing the motion to amend or prejudice to Respondent if the motion is granted. See *Gillette v. Tansy*, 17 F. 3d 308, 313 (10th Cir. 1994).

The Clerk of the Court shall serve a copy of the amended petition for writ of habeas corpus [Dkt. # 17] and a copy of this Order on Respondent and on the Attorney General for the State of Michigan by first class mail as provided in Rule 4 of the Rules Governing § 2254 Cases, Rule 4. See *Coffee v. Harry*, No. 04-71209; 2005 WL 1861943, * 2 (E.D. Mich. Aug. 2, 2005). Respondent shall file a supplemental answer to the amended habeas petition within one hundred and twenty days

of the Court's order. ¹ See *Erwin v. Elo*, 130 F. Supp. 2d 887, 891 (E.D. Mich. 2001); 28 U.S.C. § 2243. Respondent is also ordered to provide this Court with any additional Rule 5 materials that have not already been provided to the Court at the time that it files its supplemental answer. See *Griffin v. Rogers*, 308 F. 3d 647, 653 (6th Cir. 2002); Rules Governing § 2254 Cases, Rule 5, 28 U.S.C. foll. § 2254. Petitioner shall have forty five days from the receipt of the answer to file a reply brief, if he so chooses. See Rule 5(e) of the Rules Governing § 2254 Cases, 28 U.S.C. foll. § 2254.

ORDER

IT IS ORDERED THAT:

(1) The motion to reopen the petition for writ of habeas corpus [Dkt. # 16] is **GRANTED**. The Clerk of the Court shall reopen the habeas petition to the Court's active docket.

(2) The motion to add new warden as respondent [Dkt. # 15] is **GRANTED**. The caption of the case is amended.

(3) The motion to amend the petition for writ of habeas corpus [Dkt. # 16] is **GRANTED**.

(4) The Clerk of the Court shall serve a copy of the amended petition for writ of habeas corpus [Dkt. # 17] and a copy of this Order on Respondent and the Attorney General by first class mail.

(5) Respondent shall file a supplemental answer and any additional Rule 5 materials within **one hundred and twenty (120) days** of the date of this order or show cause why they are unable to comply with the order.

(6) Petitioner shall have **forty five days** from the date that he receives the answer to file a reply brief.

s/Sean F. Cox

HON. SEAN F. COX
UNITED STATES DISTRICT JUDGE

DATED: March 6, 2017

¹ Respondent filed an answer to petitioner's original habeas petition on August 4, 2014 and is therefore only required to file an answer addressing the claims raised by petitioner in his amended petition.

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EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

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UNITED STATES DISTRICT COURT

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Respondent,

_____ /

PROOF OF SERVICE

I hereby certify that on March 6, 2017, the foregoing document was served on counsel of record via electronic means and upon Anthony Lamar Williams via First Class mail at the address below:

Anthony Lamar Williams 235097
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S/J. McCoy
Case Manager