

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DELANGELO JOHNSON,

Petitioner,

v.

Case No. 5:11-cv-14910
Honorable John Corbett O'Meara

LLOYD RAPELJE,

Respondent.

**ORDER GRANTING PETITIONER'S
MOTION TO FILE AMENDED PETITION FOR WRIT OF HABEAS CORPUS**

On November 7, 2011, Petitioner Delangelo Johnson, a prisoner currently incarcerated by the Michigan Department of Corrections at the Saginaw Correctional Facility in Freeland, Michigan, filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. In response to Petitioner's petition, on November 10, 2011, the Court ordered that Respondent file his response to the petition by May 14, 2012. On November 28, 2011, Petitioner wrote a letter to the Court, requesting an opportunity to amend his petition. Petitioner has since retained counsel. On December 19, 2011, counsel filed an appearance and a "Motion to Hold Petition for Writ of Habeas Corpus in Abeyance or to File Amended Petition for Sixty Days." Counsel is requesting that the Court hold the petition in abeyance in order to allow him an opportunity to amend the petition. The Court will allow counsel to file an amended petition.

A party may amend his pleading "once as a matter of course before being served with a responsive pleading." Fed.R.Civ.P. 15(a)(1)(A). "In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave." Fed.R.Civ.P.

15(a)(2). Because Respondent has not yet filed an answer to the habeas petition, Petitioner may amend his habeas petition. Leave to amend should be freely given when justice so requires. *Id.*

Accordingly, Petitioner's motions to amend [Docket # 4 & 6] are **GRANTED**, and Petitioner's counsel has sixty days in which to file an amended petition. Respondent will be given an additional thirty (30) days in which to file his answer to the amended petition.

Respondent's response is now due on June 14, 2012.

IT IS SO ORDERED.

s/John Corbett O'Meara
United States District Judge

Date: December 20, 2011

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, December 20, 2011, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager