

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JOSEPH AMOOP
a/k/a
ANOOP MICHAEL JOSEPH,

20-cv-15473 (NLH)

**MEMORANDUM OPINION
& ORDER TO ANSWER**

Petitioner,

v.

THE ATTORNEY GENERAL OF THE
STATE OF NEW JERSEY, et al.,

Respondents.

APPEARANCES:

Megan J. Davies, Esq.
Law Offices of Megan J. Davies
38 N. Haddon Ave
Haddonfield, NJ 08033

Petitioner pro se

HILLMAN, District Judge

WHEREAS, Petitioner Joseph Amoop, also known as Anoop Michael Joseph, filed an amended petition for writ of habeas corpus under 28 U.S.C. § 2254, see ECF No. 3; and

WHEREAS, on August 11, 2021, the Court granted Petitioner's request to stay the amended petition pending exhaustion of state court remedies, see ECF No. 7; and

WHEREAS, Petitioner subsequently filed a motion for the appointment of pro bono counsel, ECF No. 10. The Court interpreted the request as an indication that he completed the

exhaustion of his state court remedies and reopened the matter, ECF No. 12; and

WHEREAS, the Court granted the motion for counsel under 18 U.S.C. § 3006A(a)(2)(B) and directed counsel to submit a supplemental brief and appendix in support of the amended petition, id.; and

WHEREAS, Petitioner, through counsel, now moves to file his second amended petition, ECF No. 18; and

WHEREAS, in accordance with Rule 4 of the Rules Governing Section 2254 Cases, this Court has screened the proposed second amended petition, ECF No. 18-1, for dismissal and determined that dismissal without an answer and production of the record is not warranted. The Court will grant the motion to amend and direct the Clerk to file the second amended petition and related documents, ECF Nos. 18-1 through 18-5, as a separate docket entry; and

WHEREAS, the Court will direct the Clerk to serve the second amended petition on the State of New Jersey, Department of Law & Public Safety, for an answer.

THEREFORE, IT IS on this 1st day of July, 2022

ORDERED that the motion to amend, ECF No. 18, be, and hereby is, granted; and it is further

ORDERED that the Clerk shall file the second amended petition, ECF No. 18-1, and its related documents, ECF Nos. 18-2

through 18-5, as a separate docket entry; and it is further

ORDERED that the Clerk shall serve, pursuant to Rule 4 of the Habeas Rules, a Notice of Electronic Filing of this Order on the State of New Jersey, Department of Law & Public Safety, Division of Criminal Justice, Appellate Bureau ("the Bureau"), in accordance with the Memorandum of Understanding between this Court and the Bureau; and it is further

ORDERED also in accordance with the Memorandum of Understanding, that if the Bureau intends to refer the action to a County Prosecutor's Office, the Bureau will use its best efforts to upload to CM/ECF a "referral letter" indicating the name of that office within fourteen (14) calendar days from the date of the Order to Answer; and it is further

ORDERED that, where the second amended petition appears to be untimely under the Antiterrorism and Effective Death Penalty Act of 1996, within forty-five (45) days of the date this Order is filed, Respondent may file a Motion to Dismiss the second amended petition on timeliness grounds only, provided that the motion: (1) attaches exhibits that evince all relevant state court filing dates; (2) contains legal argument discussing pertinent timeliness law; and (3) demonstrates that an Answer to the merits of the second amended petition is unnecessary; and it is further

ORDERED that, if the Motion to Dismiss is subsequently

denied, the Court will then direct Respondent to file a full and complete answer to all claims; and it is further

ORDERED that if Respondent does not file a Motion to Dismiss the second amended petition, they shall file a full and complete answer to all claims asserted in the second amended petition within forty-five (45) days of the entry of this Order; and it is further

ORDERED that Respondent's answer shall respond to each factual and legal allegation of the second amended petition, in accordance with Habeas Rule 5(b), and contain any affirmative defenses Respondent wishes to raise; and it is further

ORDERED that Respondent's answer shall address the merits of each claim raised in the second amended petition by citing to relevant federal law; and it is further

ORDERED that Respondent's answer shall adhere to the requirements of Habeas Rule 5(c) and (d) in providing the relevant state court record of proceedings, including any pro se filings; and it is further

ORDERED that the answer shall contain an index of exhibits identifying each document from the relevant state court proceedings that is filed with the answer; and it is further

ORDERED that Respondent shall electronically file the answer, the exhibits, and the list of exhibits; and it is further

ORDERED that all exhibits to the Answer must be identified by a descriptive name in the electronic filing entry, for example:

"Exhibit #1 Transcript of [type of proceeding] held on XX/XX/XXXX" or

"Exhibit #2 Opinion entered on XX/XX/XXXX by Judge YYYY"; and it is further

ORDERED that Petitioner may file and serve a reply to the answer within forty-five (45) days after Respondent file the answer, see Habeas Rule 5(e); it is further

ORDERED that any request to deviate from this Order shall be by motion; and it is finally

ORDERED that, within seven (7) days after any change in Petitioner's custody status, be it release or otherwise, Respondent shall electronically file a written notice of the same with the Clerk of the Court

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.