

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BARRY A POWELL,

Petitioner,

V.

MIKE OBENLAND,

Respondent.

CASE NO. 3:17-CV-05341-RJB-DWC

ORDER

The District Court has referred this 28 U.S.C. § 2254 action to United States Magistrate Judge David W. Christel. Petitioner filed his federal habeas Petition challenging the Washington State Department of Corrections' procedures for community custody and the calculation of release dates. *See* Dkt. 6. On July 20, 2017, Respondent filed a Motion to Dismiss. Dkt. 11. On August 25, 2017, Petitioner filed a document which includes an additional ground for relief and exhibits. Dkt. 15. The Court interprets Petitioner's August 25 filing (Dkt. 15) as a Motion to Amend the Petition and the August 25 filing is hereby renamed "Motion to Amend the Petition."

1 Respondent filed a response to Petitioner's August 25 filing; however, at the time, the
2 filing was not interpreted as a motion. Therefore, if Respondent wishes to file a response to the
3 Motion to Amend, he must do so on or before October 10, 2017.

4 If Respondent files a response to the Motion to Amend, Petitioner may file a reply on or
5 before October 13, 2017.

6 The Clerk is directed to rename Docket 15 to "Motion to Amend the Petition" and note it
7 for consideration on October 13, 2017. As the Court's decision on the Motion to Amend may
8 impact the Court's consideration of the Motion to Dismiss, the Court also directs the Clerk to re-
9 note the Motion to Dismiss (Dkt. 11) for October 20, 2017.¹

10 Dated this 19th day of September, 2017.

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David W. Christel
13 United States Magistrate Judge

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23 ¹ If Petitioner files an amended petition, the Motion to Dismiss will likely be denied as moot. *See e.g.*
24 *McElroy v. Castro*, 2008 WL 110983 (S.D. Cal. Jan. 10, 2008) (recommending the respondent's motion to dismiss
be denied as moot because, after the motion to dismiss was filed, the petitioner amended his mixed petition to
remove unexhausted claims).