

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MICHAEL MARIO MILLER,
Petitioner,

v.

Case No. 12-C-0945

BRIAN FOSTER, Warden,
Waupun Correctional Institution,
Respondent.

ORDER

On April 11, 2013, I granted the petitioner's motion to stay this habeas case and hold the petition in abeyance until he had exhausted his state remedies in connection with claims that he sought to add to the petition. On May 4, 2016, the petitioner filed a motion in which he states that he believes he has exhausted his state remedies and would like me to order further proceedings in this matter. I will grant this motion.

On the same day that the petitioner filed his motion to lift the stay, he also filed a motion to amend his original petition. In this motion, the petitioner states that he is attempting to retain counsel and would like time for retained counsel to file an amended petition. However, on May 9, 2015, the petitioner filed, *pro se*, a proposed amended petition. I will grant the petitioner's motion to file an amended petition and treat the petition filed on May 9th as the amended petition. Should the petitioner later retain counsel, he may at that time seek leave to file a second amended petition.

THEREFORE, IT IS ORDERED that petitioner's motion to lift the stay is **GRANTED.**

IT IS FURTHER ORDERED that petitioner's motion to file an amended petition is **GRANTED**.

IT IS FURTHER ORDERED that within 60 days of the date of this order respondent either answer the amended petition or file a dispositive motion.

FINALLY, IT IS ORDERED that that the parties shall abide by the following schedule regarding the filing of briefs on the merits of petitioner's claims: (1) petitioner shall have 45 days following the filing of respondent's answer within which to file his brief in support of his petition; (2) respondent shall have 45 days following the filing of petitioner's initial brief within which to file a brief in opposition; and (3) petitioner shall have 30 days following the filing of respondent's opposition brief within which to file a reply brief, if any.

In the event that respondent files a dispositive motion and supporting brief in lieu of an answer, this briefing schedule will be suspended and the briefing schedule will be as follows: (1) petitioner shall have 45 days following the filing of respondent's dispositive motion and supporting initial brief within which to file a brief in opposition; and (2) respondent shall have 30 days following the filing of petitioner's opposition brief within which to file a reply brief, if any.

Pursuant to Civil L.R. 7(f), the following page limitations apply: briefs in support of or in opposition to the habeas petition or a dispositive motion filed by respondent must not exceed 30 pages and reply briefs must not exceed 15 pages, not counting any statements of facts, exhibits, and affidavits.

Dated at Milwaukee, Wisconsin, this 24th day of May, 2016.

s/ Lynn Adelman

LYNN ADELMAN
District Judge