

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Edgar Lopez Frausto v. Janan Cavagnolo, Rob Bonta

Frausto v. Cavagnolo · No. 19-cv-0544-BAS-LR · Decided July 2, 2025

SUMMARY

The United States District Court for the Southern District of California vacated as moot the petitioner’s application for leave to file a first amended habeas petition. The court held that the petitioner could amend as a matter of course under Federal Rule of Civil Procedure 15(a) because no responsive pleading had been filed, and it lifted the stay after learning that the petitioner had exhausted his state-court claims.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Cynthia Bashant
JURISDICTION	United States District Court for the Southern District of California
DECIDED	July 2, 2025
DOCKET	19-cv-0544-BAS-LR
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought leave under Federal Rule of Civil Procedure 15(c) to file a first amended § 2254 habeas petition while the proceeding was stayed.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Edgar Lopez Frausto v. Janan Cavagnolo, Rob Bonta

TOPICS

- motion to amend
- federal habeas corpus
- civil procedure
- state post-conviction relief

PRACTICE AREAS

- federal habeas corpus
- civil procedure

QUESTIONS PRESENTED

1. Whether a habeas petitioner may amend the petition as a matter of course under Federal Rule of Civil Procedure 15(a) before a responsive pleading is served.
2. Whether the court should lift the stay after learning that Petitioner had exhausted his claims in state court.

HOLDINGS

1. A habeas petitioner may amend the petition as a matter of right under Federal Rule of Civil Procedure 15(a) before a responsive pleading is served, so the petitioner did not need the court's leave.
2. The court lifted the stay sua sponte after learning that Petitioner had exhausted his claims in state court.

KEY QUOTATIONS

“amend the party’s pleading once as a matter of course at any time before a responsive pleading is served.”
(1)

“Rule 15 applies to habeas petitions “with the same force that it applies to all garden-variety civil cases.””
(1)

FACTUAL BACKGROUND

Petitioner was pursuing a federal habeas proceeding based on state custody. Respondents had not yet filed a responsive pleading, and the court learned that Petitioner had exhausted his claims in state court.

PROCEDURAL HISTORY

Frausto filed a state-custody habeas proceeding in federal court and moved for leave to file a first amended petition. Because Respondents had not filed a responsive pleading, the court held that amendment was available as a matter of course under Rule 15(a), vacated the motion as moot, and sua sponte lifted the stay after learning that Frausto had exhausted his state-court claims.

DISPOSITION

other

CASES CITED

- Calderon v. United States District Court, 134 F.3d 981, 986 n.6 (9th Cir. 1998)
- Rhines v. Weber, 544 U.S. 269 (2005)
- Keating v. Hood, 191 F.3d 1053, 1067 (9th Cir. 1999)

OPINION

Frausto v. Ndo

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 EDGAR LOPEZ FRAUSTO, Case No. 19-cv-0544-BAS-LR 12 Petitioner,
ORDER

13 v. 1. VACATING APPLICATION

TO FILE A FIRST AMENDED

14 JANAN CAVAGNOLO, ROB BONTA,

PETITION (ECF No. 18)

15 Respondents.

2. LIFTING STAY (ECF No. 9),

16 17 Plaintiff applies to this Court, pursuant to Federal Rule of Civil Procedure 18 (“Rule”) 15(c), for leave to file a First Amended Petition for writ of habeas corpus by a 19 person in state custody. (ECF No. 18.) However, under Rule 15(a), a civil litigant may 20 “amend the party’s pleading once as a matter of course at any time before a responsive 21 pleading is served.” Further, Rule 15 applies to habeas petitions “with the same force that 22 it applies to all garden-variety civil cases.” *Calderon v. United States Dist. Ct.*, 134 F.3d 23 981, 986 n.6 (9th Cir. 1998) abrogated on other grounds by, *Rhines v. Weber*, 544 U.S. 24 269 (2005)); see also *Keating v. Hood*, 191 F.3d 1053, 1067 (9th Cir. 1998) (applying Rule 25 15(a) to § 2254 habeas petitions). As Respondents have yet to file a responsive pleading, 26 Petitioner may file an amended pleading as a matter of right and does not need the Court’s 27 leave to do so. Accordingly, Petitioner’s Motion to File a First Amended Petition is 28 VACATED as moot. (ECF No. 18.) 1 Finally, upon learning that Petitioner has exhausted his claims in state court (ECF 2 || No. 18-1 4 10), the Court sua sponte LIFTS THE STAY of this proceeding (ECF No. 9). 3 IT IS SO ORDERED. 4 5 ||DATED: July 2, 2025 yatta Bahar 6 Hon. Cynthia Bashant, Chief Judge 4 United States District Court 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28