

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

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