UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DONALD J. PEEL, Movant, v. UNITED STATES OF AMERICA, Respondent.	No. 2:14-cr-00192-KJM-CKD-1 ORDER

Movant is a federal prisoner proceeding pro se and in forma pauperis in this proceeding to vacate, set aside or correct his sentence pursuant to 28 US.C. § 2255. Currently pending before the court is movant's motion to amend his § 2255 motion along with a proposed amended pleading raising thirteen claims for relief. ECF Nos. 213-214. Respondent has also filed a motion for an extension of time to answer the § 2255 motion. ECF No. 215. For the reasons explained below, the court will grant the pending motions.

The court has reviewed movant's original § 2255 motion as well as the proposed amended § 2255 motion. The claims presented in both motions are substantially similar. Amendments of pleadings are governed by Rule 15(a) of the Federal Rules of Civil Procedure. This rule "applies to habeas corpus actions with the same force that it applies to garden-variety civil cases." James v. Giles, 221 F.3d 1074, 1077 (9th Cir. 2000) (quotation marks and citation omitted). According to Rule 15(a)(1), "[a] party may amend its pleading once as a matter of course within 21 days

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after serving it…." The court ordered movant's original § 2255 motion served on respondent on January 22, 2020. ECF No. 210. Movant filed his motion to amend on February 6, 2020 which is within 21 days of the § 2255 motion being served.[1] As a result, movant is entitled to amend his § 2255 motion and his motion to amend is granted.

Respondent has requested a 90 day extension of time in order to answer movant's § 2255 motion. The court will grant this motion for good cause shown and in light of the amendment of movant's § 2255 motion.

Accordingly, IT IS HEREBY ORDERED that:

1. Movant's motion to amend his § 2255 motion (ECF No. 213) is granted.
2. The amended § 2255 motion to vacate, set aside or correct sentence filed on February 10, 2020 is now the operative pleading.
3. Respondent's motion for an extension of time (ECF No. 215) is granted for good cause shown.
4. Respondent's answer to the amended § 2255 motion is due on or before June 19, 2020.
5. Movant's reply, if any, is due within 30 days from the date of filing of respondent's answer.

Dated: March 19, 2020

CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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[1] All filing dates are calculated using the prison mailbox rule. See Houston v. Lack, 487 U.S. 266 (1988).