

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 WEIQIANG ZHANG,)
)
 Defendant.)
 _____)

**Case No. 13-20134-01-CM
19-2185-CM**

MEMORANDUM AND ORDER

This closed criminal case is before the court on defendant Weiqiang Zhang’s Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Doc. 295) and defendant’s Motion for Leave to Amend with Request for Extension of Time (Doc. 296).

Defendant filed a § 2255 motion with no supporting memorandum of law, and only a brief statement of his claims. At the same time, he asked for leave to amend his motion within 90 days to fully support his claims.

Because the court does not presently have a proposed amended motion to review, the court cannot determine whether leave to amend should be granted. *See* D. Kan. R. 15.1 (outlining requirements for motions to amend). The court cannot determine whether the claims in defendant’s proposed amended motion would relate back to the original filing (and therefore be timely-filed habeas claims) without comparing the proposed motion to the pending motion. The court therefore denies defendant’s motion to amend without prejudice.

The court will, however, delay ordering a response to the pending § 2255 motion (doc. 295) and ruling on the motion until at least July 5, 2019. Defendant must file a proper motion for leave to amend on or before that date for the court to consider defendant’s proposed amended motion.

IT IS THEREFORE ORDERED that defendant's Motion for Leave to Amend with Request for Extension of Time (Doc. 296) is denied without prejudice. If defendant wants to amend his § 2255 motion, he should file another motion to amend with the proposed amended § 2255 motion attached on or before July 5, 2019.

IT IS FURTHER ORDERED that the court will set a response deadline for the government to respond to defendant's amended § 2255 motion (if filed) after such motion is filed. The government does not need to respond to the § 2255 motion currently on file.

Dated this 18th day of April, 2019, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge