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

Michael Ray White,)	No. CV 08-8139-PCT-GMS
Petitioner,)	<u>DEATH PENALTY CASE</u>
v.)	ORDER
Charles L. Ryan, et al.,)	
Respondents.)	

Pursuant to this Court’s September 29, 2009 order, the parties have filed a Joint Report Regarding Petitioner’s Competency. (Doc. 187.) The report indicates that Petitioner does not want to be moved from his current residence at the Browning Unit to any other facility for the purpose of restoration to competency. Consequently, Petitioner’s counsel propose that he remain at the Browning Unit and that appropriate experts from the Arizona State Hospital (ASH) evaluate and assess him there to determine: (1) whether Petitioner can be restored to competency; (2) if so, the length of time restoration treatment will likely take; and (3) an appropriate treatment plan setting forth specific recommendations for restoration treatment. (*Id.* at 2.) Petitioner’s counsel further suggest providing ASH physicians 90 days (or longer at their request) to conduct the initial evaluation and prepare a restoration treatment plan, which would be provided to the Court and counsel under seal. (*Id.* at 2.) Finally, Petitioner’s counsel suggest that the Court set a status conference after receipt of the treatment plan.

1 Respondents agree with Petitioner's suggested process but object to Petitioner's
2 request that he remain at the Browning Unit because the Arizona Department of Corrections
3 has indicated that restoration treatment is unavailable at that facility. Respondents therefore
4 propose that Petitioner be transferred to the state hospital.

5 The Court finds good cause for the Arizona Department of Corrections to transfer
6 Plaintiff to the Arizona State Hospital. Accordingly, the Court authorizes such transfer. *See*
7 *Fed. R. App. Proc. 23(a)*; *see also* A.R.S. § 13-4022(G) (mandating that prisoner found
8 incompetent to be executed be transferred to "licensed behavioral health or mental health
9 inpatient treatment facility operated by the state department of corrections for competency
10 restoration treatment.").

11 Based on the foregoing,

12 **IT IS ORDERED** that Respondents are authorized to transfer Petitioner to the
13 Arizona State Hospital.

14 **IT IS FURTHER ORDERED** that within 90 days of this Order Respondents shall
15 ensure that appropriate experts at the Arizona State Hospital: (1) assess whether Petitioner
16 can be restored to competency; (2) if so, estimate the length of time restoration treatment will
17 likely take; and (3) prepare an appropriate treatment plan setting forth specific
18 recommendations for restoration treatment. (*Id.* at 2.) Respondents shall provide this
19 information under seal to Petitioner's counsel and the Court no later than **January 31, 2011**.
20 Thereafter, the Court will set this matter for a status conference.

21 DATED this 28th day of October, 2010.

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24 _____
G. Murray Snow
United States District Judge