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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Benjamin Lee Short,

No. CV 13-8276-PCT-SPL (BSB)

10 Petitioner,

11 vs.

ORDER

12 Charles L. Ryan, et al.,

13 Respondents.
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15 Petitioner Benjamin Lee Short, who is confined in the Arizona State Prison
16 Complex-Safford, filed a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C.
17 § 2254. In a March 14, 2014 Order, the Court dismissed the Petition with leave to amend.
18 On March 27, 2014, Petitioner filed an Amended Petition. The Court will require an
19 answer to the Amended Petition.

20 **I. Amended Petition**

21 Petitioner was convicted in Yavapai County Superior Court, case #CR 201100749,
22 of aggravated assault of a peace officer, two counts of criminal impersonation, and
23 possession of dangerous drugs. Petitioner was sentenced to consecutive terms of
24 imprisonment totaling 10.5 years. In his Petition, Petitioner names Charles L. Ryan as
25 Respondent and the Arizona Attorney General as an Additional Respondent.

26 Petitioner raises one ground for relief in which he alleges that his consecutive
27 sentences violate his right to be free from double jeopardy and that the sentencing court
28 erred in “interpreting clarification of Petitioner’s permissible sentencing structure under

1 state law.”

2 Petitioner states that he has presented his claim to the Arizona Court of Appeals.
3 The Court will require Respondents to answer the Amended Petition. 28 U.S.C.
4 § 2254(a).

5 **II. Warnings**

6 **A. Address Changes**

7 Petitioner must file and serve a notice of a change of address in accordance with
8 Rule 83.3(d) of the Local Rules of Civil Procedure. Petitioner must not include a motion
9 for other relief with a notice of change of address. Failure to comply may result in
10 dismissal of this action.

11 **B. Copies**

12 Petitioner must serve Respondents, or counsel if an appearance has been entered, a
13 copy of every document that he files. Fed. R. Civ. P. 5(a). Each filing must include a
14 certificate stating that a copy of the filing was served. Fed. R. Civ. P. 5(d). Also,
15 Petitioner must submit an additional copy of every filing for use by the Court. LRCiv
16 5.4. Failure to comply may result in the filing being stricken without further notice to
17 Petitioner.

18 **C. Possible Dismissal**

19 If Petitioner fails to timely comply with every provision of this Order, including
20 these warnings, the Court may dismiss this action without further notice. *See Ferdik v.*
21 *Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action
22 for failure to comply with any order of the Court).

23 **IT IS ORDERED:**

24 (1) The Clerk of Court must serve a copy of the Amended Petition (Doc. 5) and
25 this Order on the Respondent and the Attorney General of the State of Arizona by
26 certified mail pursuant to Rule 4, Rules Governing Section 2254 Cases.

27 (2) Respondents must answer the Amended Petition within 40 days of the date
28 of service. Respondents must not file a dispositive motion in place of an answer but may

1 file an answer limited to relevant affirmative defenses, including but not limited to,
2 statute of limitations, procedural bar, or non-retroactivity. If the answer is limited to
3 affirmative defenses, only those portions of the record relevant to those defenses need be
4 attached to the answer. Failure to set forth an affirmative defense in an answer may be
5 treated as a waiver of the defense. *Day v. McDonough*, 547 U.S. 198, 209-11 (2006). If
6 not limited to affirmative defenses, the answer must fully comply with all of the
7 requirements of Rule 5 of the Rules Governing Section 2254 Cases.

8 (3) Petitioner may file a reply within 30 days from the date of service of the
9 answer.

10 (4) This matter is referred to Magistrate Judge Bridget S. Bade pursuant to
11 Rules 72.1 and 72.2 of the Local Rules of Civil Procedure for further proceedings and a
12 report and recommendation.

13 Dated this 21st day of July, 2014.

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15 
16 Honorable Steven P. Logan
17 United States District Judge
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