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

Robert Douglas Smith,)	No. CV-87-234-TUC-CKJ
Petitioner,)	<u>DEATH PENALTY CASE</u>
v.)	
Charles L. Ryan, et al.,)	ORDER
Respondents.)	

In February 2009, the Ninth Circuit Court of Appeals remanded this matter for “an evidentiary hearing on the question whether Smith has established cause and prejudice to overcome the procedural default of his sentencing ineffectiveness claim and such other matters as the court may deem appropriate.” *Smith v. Schriro*, No. 96-99025 (9th Cir. Feb. 26, 2009). Following an evidentiary hearing, Chief United States District Court Judge John M. Roll determined that Petitioner failed to establish cause. Subsequently, the Ninth Circuit again remanded for the limited purpose of considering a claim of mental retardation under *Atkins v. Virginia*, 536 U.S. 304 (2002). *Smith v. Schriro*, No. 96-99025 (9th Cir. Sept. 10, 2010). The matter was reassigned to the undersigned judge in February 2011, and the Court granted Petitioner’s motion to amend his habeas petition to add several new claims arising from pursuit of state postconviction relief under *Atkins*. (Doc. 269.) The parties filed supplemental briefs addressing the merits of these claims, and the matter is presently under advisement.

