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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FRANK W. TRUDEAU,

1:02-cv-05764 LJO SMS (HC)

Petitioner,

v.

ORDER SETTING BRIEFING SCHEDULE
FOLLOWING REMAND FROM THE NINTH
CIRCUIT COURT OF APPEALS

D. L. RUNNELS, Warden,

[Docs. 79. 80]

Respondents.

_____ /

Petitioner is a state prisoner proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner is represented by Carolyn D. Phillips, Esq.

On October 29, 2008, the instant petition for writ of habeas corpus was dismissed as untimely and judgment was entered. On November 19, 2008, Petitioner filed a notice of appeal in the Ninth Circuit Court of Appeals. On February 2, 2011, the Ninth Circuit found that the petition was timely and remanded the action back to this Court. Pursuant to the Ninth Circuit Court of Appeals’ order and Rule 4 of the Rules Governing Section 2254 Cases and Rule 16 of the Federal Rules of Civil Procedure,¹ the Court **HEREBY ORDERS:**

¹ The Federal Rules of Civil Procedure “apply to proceedings for habeas corpus ... to the extent that the practice in those proceedings (A) is not specified in a federal statute, the Rules Governing Section 2254 Cases, or the Rules Governing Section 2255 Cases; and (B) has previously conformed to the practice in civil actions.” Fed.R.Civ.P. 81(a)(4). Rule 12 also provides “[t]he Federal Rules of Civil Procedure, to the extent that they are not inconsistent with any statutory provisions or these rules, may be applied to a proceeding under these rules.” Rule 12, Rules Governing Section 2254 Cases.

