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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL COREY SLAUGHTER,
Petitioner,

v.

KEVIN CHAPPELL, Warden of San Quentin
State Prison,
Respondent.

Case No. 1:05-cv-00922-AWI-SAB

DEATH PENALTY CASE

ORDER STRIKING UNEXHAUSTED
ALLEGATIONS FROM CLAIMS 7 & 19 OF
SECOND AMENDED PETITION

ORDER DIRECTING PARTIES TO FILE
JOINT STATEMENT

Sixty-Day Deadline

On February 12, 2015, Petitioner was ordered to notify the Court how he intends to proceed on unexhausted allegations in claims 7 and 19. (ECF No. 102.) On February 26, 2015, Petitioner informed the Court that he will abandon the unexhausted allegations. (ECF No. 103.) Rather than file an amended petition, Petitioner asks that the Court strike the unexhausted allegations from the existing second amended petition. Respondent filed a response on March 5, 2015, agreeing that the remaining claims in the second amended petition are fully exhausted and that Petitioner should be allowed to proceed thereon without the need to file another amended petition. (ECF No. 104.)

1 Accordingly, and good cause appearing, it is HEREBY ORDERED that:

- 2 1. There is stricken from Petitioner's second amended petition the claim 7 allegation
3 that "[p]otential problems such as pretrial publicity and racial bias were
4 insufficiently addressed" (2d Am. Pet., ECF No. 82, at 36:10-11), and the claim
5 19 allegation that "[t]he prosecutor made additional improper arguments during
6 the second penalty phase trial. RT 2679-2709", (id., at 101:3-4). Petitioner shall
7 proceed on the second amended petition with the above allegations stricken.
- 8 2. Within sixty days from the filed date of this order, the parties shall meet and
9 confer and file a joint statement setting forth a proposed schedule for submission
10 of any amended answer and/or traverse; points and authorities addressing 28
11 U.S.C. § 2254(d) in support of and opposition to the each claim in the second
12 amended petition; Petitioner's reply; and any motions for factual development.
13 The joint statement shall also address any procedural issues that need to be
14 discussed before the case moves to phase III and, if so, a timeline for litigating
15 them. The Court will not entertain a request for summary judgment.
- 16 3. Once the joint statement is filed and the Court determines that the case is at issue,
17 the Court will set a Phase III case management conference to discuss merits
18 briefing and to discuss budgetary issues ex parte with Petitioner. The merits of
19 the claims alleged in the second amended petition will be addressed prior to
20 procedural defenses.

21 IT IS SO ORDERED.

22 Dated: March 6, 2015

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24 SENIOR DISTRICT JUDGE