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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIE LEO HARRIS,
Petitioner,
v.
RON DAVIS, Warden of the California State
Prison at San Quentin,
Respondent.

Case No. 1:16-cv-01572-DAD
DEATH PENALTY CASE
STIPULATED ORDER REGARDING
CLAIM EXHAUSTION AND SCHEDULING
AND DIRECTING RESPONDENT TO
SHOW CAUSE RE RHINES STAY
(Doc. No. 62)

Before the court is the parties' joint statement filed November 29, 2018 regarding the exhaustion status of the 45 claims, including sub-claims, alleged in the 335-page petition for writ of habeas corpus filed in this proceeding on March 30, 2018.

The parties agree that certain claims are fully or partially unexhausted and that the current scheduling order should be modified to allow respondent to show cause why the court should not order stay and abeyance under Rhines v. Weber, 544 U.S. 269 (2005). (Doc. No. 62 at 1-3) (citing the Fresno Division's Guide to Case Management and Budgeting in Capital Habeas Cases.)

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1 Accordingly, pursuant to the parties' agreement and good cause having been shown:

- 2 1. All claims and sub-claims in the petition are deemed exhausted except that
3 claims and sub-claims 8, 10, 11.C.12, 11.C.14, 12, 13, 14, 27, 32, 34.D.5
4 through 34.D.7, 34.D.9, 36, 43, and 44 are found to be unexhausted.
- 5 2. The currently scheduled March 30, 2019 deadline for the filing of respondent's
6 answer is vacated and will be re-set by the court upon completion of exhaustion
7 proceedings.
- 8 3. Respondent is directed to show cause why this matter should not be stayed
9 pursuant to Rhines and shall file his response not later than sixty (60) days
10 following the filed date of this order, or waive any entitlement to show cause.
- 11 4. Petitioner shall file his reply to that response not later than thirty (30) days
12 following the filed date of the response.
- 13 5. Respondent shall file his sur-reply, if any, not later than thirty (30) days
14 following the filed date of the reply.
- 15 6. The matter shall be deemed submitted following completion of the briefing
16 described above. The parties will be notified if a hearing on the issue of the
17 appropriateness of a stay under Rhines is deemed necessary by the court.

18 IT IS SO ORDERED.

19 Dated: December 4, 2018

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22 UNITED STATES DISTRICT JUDGE
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