

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA

3
4 EURIE BRIM III,
5 Petitioner,
6 v.
7 P. L. VASQUEZ, Warden,
8 Respondent.

No. 1:17-cv-00536-SKO HC
ORDER OF CLARIFICATION
(Doc. 9)

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10 Petitioner Eurie Brim III is a state prisoner proceeding *pro se* with a petition for writ of
11 habeas corpus pursuant to 28 U.S.C. § 2254. On May 3, 2017, the Court dismissed the petition as
12 originally filed on February 21, 2017, and granted Petitioner leave to amend the petition to correct
13 the deficiencies noted in the dismissal order. On May 26, 2017, Petitioner filed a motion for
14 clarification of the May 3, 2017, order. On May 30, 2017, Petitioner filed the first amended
15 petition for writ of habeas corpus.

16 The motion questions the status of his prior case number (2:17-cv-00380-AC HC), which
17 was assigned to the above-captioned case when Petitioner filed it in the Clerk's office of the
18 Sacramento Division of the Eastern District of California. Because Petitioner is presently
19 confined in the California Correctional Institution, Tehachapi, California, ("CCI-Tehachapi) the
20 petition is properly considered in the Fresno Division. As a result, the Sacramento Division
21 transferred the petition to the Fresno Division, which assigned the new case number (1:17-cv-
22 00536-SKO HC). Petitioner should disregard the prior case number and use only the new
23 number.
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26 The motion also questions whether Petitioner should attach to the first amended complaint
27 the exhibits for the four grounds he alleges in the first amended complaint. The answer is "yes."
28 The first amended petition should include all exhibits or appendices that Petitioner would like the

1 Court to consider when it reviews his case, including copies of any exhibits or appendices that
2 were attached to the original petition. After a Petitioner has filed an amended petition, the Court
3 will not look back at any prior petition or any exhibits or appendices that were attached to it.

4 The motion for clarification indicates that Petitioner filed the first amended complaint
5 without attaching the exhibits and appendices for his claims of ineffective assistance of counsel
6 and prosecutorial misconduct. Petitioner had not yet received the necessary copies because of a
7 lockdown at CCI-Tehachapi. The Court will order an extension of time, effective retroactively to
8 the original date on which the first amended petition was due, to permit Petitioner to supplement
9 the first amended petition with the exhibits and appendices for which he was awaiting copies as
10 well as any additional exhibits or appendices concerning his claims of insufficient evidence and
11 trial court error. Petitioner need not attach copies of the state court record or portions of it since
12 the Respondent will provide the record as part of his answer or motion to dismiss.

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15 When Petitioner submits the exhibits and appendices, he should attach them to a cover
16 sheet bearing the case caption and entitled, "Supplemental Exhibits and Appendices as
17 Authorized by Order of Clarification." Petitioner should also use divider sheets to indicate the
18 claim to which that exhibit or appendix applies.

19 It is hereby ORDERED that Petitioner shall have 45 days from the date of this order to file
20 with the Clerk of Court for the Eastern District of California, Fresno Division, all supplementary
21 exhibits and appendices intended to be included as part of the first amended petition, filed May
22 30, 2017, as Document 8.

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25 IT IS SO ORDERED.

26 Dated: June 27, 2017

27 /s/ Sheila K. Oberto
28 UNITED STATES MAGISTRATE JUDGE