

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID A. BREAUX,  
Petitioner,  
v.  
WARDEN, San Quentin State Prison,  
Respondent.

No. 2:93-cv-0570 JAM DAD P  
DEATH PENALTY CASE  
ORDER

Petitioner is a state prisoner incarcerated under sentence of death. He is proceeding through counsel with an application for writ of habeas corpus under 28 U.S.C. § 2254.

Under the current scheduling order, the parties had until June 16, 2014, in which to complete all independent investigation in this case and to submit statements to the court identifying which claims will require live testimony in an evidentiary hearing, which claims will be submitted solely on an expanded record or through deposition or affidavit, and which claims will require no consideration of evidence at all. (Doc. Nos. 257, 263.) The scheduling order further requires the parties to submit no later than July 16, 2014, a joint proposed schedule and status report that “shall include (1) a proposed schedule for any depositions; (2) a proposed deadline for the filing of any pre-evidentiary hearing motions that either party deems appropriate; and (3) proposed dates for the evidentiary hearing.” (Doc. No. 257 at 2.)

////

1 On June 16, 2014, the parties jointly submitted a stipulation informing the court that they  
2 “need until October 15, 2014, to complete all independent investigation” and to submit statements  
3 regarding their proposed division of claims. (Doc. 269 at 2.) The parties’ stipulation does not  
4 formally ask for an extension of time to complete those tasks, but it does request that the due date  
5 for the joint proposed schedule and status report, currently set at July 15, be extended to  
6 November 17, 2014. The court therefore construes the parties’ stipulation as a joint motion to  
7 amend the scheduling order. Good cause appearing, the requested extensions of time will be  
8 granted.

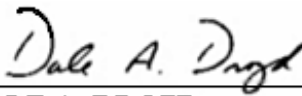
9 Accordingly, IT IS HEREBY ORDERED that the scheduling order is amended as  
10 follows:

11 1. The parties have until October 15, 2014, in which to complete all independent  
12 investigation in this case and shall by that same date submit statement(s) to the court identifying  
13 (1) which claims will require live testimony in an evidentiary hearing; (2) which claims will be  
14 submitted solely on an expanded record or through deposition or affidavit; and (3) which claims  
15 will require no consideration of evidence at all. The parties may submit said statement(s) jointly  
16 or separately.

17 2. The parties shall submit no later than November 17, 2014, a joint proposed schedule  
18 and status report that shall include (1) a proposed schedule for any depositions; (2) a proposed  
19 deadline for the filing of any pre-evidentiary hearing motions that either party deems appropriate;  
20 and (3) proposed dates for the evidentiary hearing.

21 Dated: June 17, 2014

22  
23 hm  
brea0570.eot(6.17.14)

24   
25 \_\_\_\_\_  
26 DALE A. DROZD  
27 UNITED STATES MAGISTRATE JUDGE  
28