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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES DAVID MAJORS,

Petitioner,

No. 2:99-cv-00493 MCE KJN

vs.

DEATH PENALTY CASE

WARDEN,
San Quentin State Prison,

Respondent.

ORDER

_____ /
As required by the court’s September 19, 2011 order, the parties submitted a joint status report. (Dkt. No. 226.) They propose the court resolve issues related to 28 U.S.C. §2254(d) and non-retroactivity under Teague v. Lane, 498 U.S. 288 (1988), before it addresses procedural default issues or permits further factual development.¹ The parties’ proposed schedule for briefing section 2254(d) and Teague is supported by good cause. However, while the court agrees generally with the parties’ proposed schedule for resolving any remaining procedural default and merits issues, the court finds it premature. The undersigned will conduct a status and scheduling conference after resolution of the section 2254(d) and Teague issues.

_____ ¹ As this court stated previously, motions to preserve evidence will be considered prior to resolution of section 2254(d) issues. (Dkt. No. 225 at 4.)

1 Accordingly, IT IS HEREBY ORDERED as follows:

2 1. Within 180 days of the filed date of this order, petitioner shall file a
3 memorandum of points and authorities addressing the satisfaction of 28 U.S.C. § 2254(d) for
4 each claim in the amended petition.

5 2. Within 180 days of the filing date of petitioner's memorandum, respondent
6 shall file an opposition, which shall include briefing of the non-retroactivity defense, to the
7 extent it was asserted in the answer.


8 3. Within 90 days of the filing date of respondent's opposition, petitioner may file
9 reply.

10 4. Extensions of these filing deadlines will be granted only upon a showing of
11 extraordinary circumstances.

12 5. After receipt of the briefs, the court will schedule argument, if necessary. Upon
13 resolution of the section 2254(d) and Teague issues, the undersigned will conduct a scheduling
14 conference.

15 6. Because the parties have agreed to a schedule, the scheduling conference set
16 for October 20, 2011 is taken off calendar.

17 DATED: October 18, 2011

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19 
20 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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