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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS HOWARD LENART,
Petitioner,
v.
ROBERT L. AYERS, JR.,
Respondent.

No. 2:05-CV-01912 MCE CKD
DEATH PENALTY CASE
ORDER

As required by the court’s April 30, 2018 order, the parties submitted a joint status report. ECF No. 198. Petitioner has indicated that no traverse will be filed in this case. ECF No. 198 at 2. The parties do not agree on the time table for briefing the claims raised in the second amended habeas petition or the particular issues to be included in the briefing schedule. See ECF No. 198. In light of the volume of the state court record in this case, the court finds petitioner’s request for an 18 month time period to submit an opening brief to be reasonable and supported by good cause.

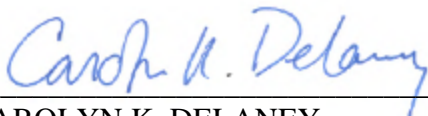
The parties are hereby directed to brief the application of 28 U.S.C. § 2254(d) to the claims raised in the second amended petition with specific citation to the state court record lodged electronically in this case. This round of briefing shall also address the applicability of Teague v. Lane, 498 U.S. 288 (1988) as a bar to claims 12, 32, 34, 35 and 36 as asserted in respondent’s answer. See ECF No. 193 at 9. The court will resolve issues related to 28 U.S.C. § 2254(d) and

1 non-retroactivity under Teague before it addresses procedural default issues or permits further
2 factual development of any claim.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. Petitioner's opening brief is due on or before January 2, 2020.
- 5 2. Respondent's brief in opposition is due July 2, 2021.
- 6 3. Petitioner may file a reply brief on or before September 30, 2021.
- 7 4. Upon resolution of the § 2254(d) and Teague issues, the undersigned will conduct a
8 further scheduling conference concerning procedural default issues.

9 Dated: June 28, 2018



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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