

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

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

DAVID ALLEN RUNDLE,

Petitioner,

No. 2:08-cv-01879 GEB KJN

vs.

DEATH PENALTY CASE

WARDEN,  
San Quentin State Prison,

Respondent.

ORDER

On October 14, 2010, the undersigned held a status conference. Lynne Coffin appeared for petitioner. Marcia Morrissey participated telephonically for petitioner. David Eldridge and Michael Farrell appeared for respondent. Petitioner’s counsel informed the court that they intend to file a traverse, primarily to address procedural issues raised in the answer. In response, the court informed the parties that it does not want litigation of procedural issues to delay all factual development of this case.

After hearing the arguments of counsel, and good cause appearing, IT IS  
HEREBY ORDERED as follows:

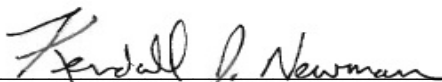
1. By February 11, 2011, petitioner shall file a traverse. Because respondent has raised procedural defenses in the answer, petitioner’s traverse shall brief those procedural defense issues in addition to refuting any merits arguments in the answer. The court intends the

1 traverse to be petitioner's memorandum of points and authorities in opposition to respondent's  
2 assertion of procedural defenses. After the traverse is filed, respondent will be given an  
3 opportunity to seek leave to file a reply memorandum, if necessary.

4           2. Before March 10, 2011, the parties shall meet and confer regarding a schedule  
5 for these proceedings and, specifically, any discovery either party intends to seek. By March 10,  
6 2011, each party shall file a status report proposing a schedule, describing the discovery he will  
7 seek, and outlining any opposition to the discovery the other party will seek. The parties are  
8 advised that the undersigned finds that summary judgement is usually not an efficient or cost-  
9 saving procedure in a habeas case. Rather, the court contemplates that after the litigation of any  
10 procedural issues, the parties may thereafter complete discovery, then petitioner may file a  
11 motion for an evidentiary hearing, and, after any evidentiary hearing, the parties will file final  
12 merits briefs on all issues.

13           3. On March 17, 2011, at 10:00 a.m., the undersigned will hold a status  
14 conference in courtroom # 25.

15 DATED: October 15, 2010

16  
17  
18   
19 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

20 rundle sts.or