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

TIMOTHY L. MILLIGAN,

Petitioner,

No. CIV S-08-2766 MCE EFB P

vs.

PAM AHLIN, Warden,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus. *See* 28 U.S.C. § 2254. Petitioner seeks an extension of time to file and serve a traverse, *see* Fed. R. Civ. P. 6(b), and asks the court to strike respondent’s answer until respondent provides copies of the documents lodged in support thereof to petitioner.

According to petitioner, this court’s order of April 22, 2010 required respondent to provide documents in support of the answer to petitioner. That order, however, merely required respondent to file such documents with the court. Dckt. No. 20. As respondents have thus not violated any court order by failing to provide copies of the lodged documents to petitioner, the court will construe petitioner’s motion as a request for discovery under Rule 6 of the Rules Governing § 2254 Cases. Rules Governing § 2254 Cases in the U.S. District Courts, foll. 28 U.S.C. § 2254, Rule 6.

1 So construed, the court will grant the motion in part. The documents lodged in support of
2 the answer are: (1) certain pages of the Clerk's Transcript in Shasta County Case No. 95F8060;
3 (2) certain pages of the Reporter's Transcript in the same; (3) petitioner's opening brief on his
4 direct appeal in California Court of Appeal Case No. C056488; (4) the government's opposing
5 brief in the same; (5) petitioner's reply brief in the same; (6) the Court of Appeal's decision in
6 the same; (7) petitioner's petition for review to the California Supreme Court in Case No.
7 S166272; (8) the California Supreme Court's denial of the petition for review in the same; (9)
8 petitioner's habeas corpus petition in California Supreme Court Case No. S180214; and (10) the
9 California Supreme Court's denial of the same. Resps.' Notice of Lodging of Documents, Dckt.
10 No. 25. With the exception of (1) and (2), these documents should already be in petitioner's
11 possession, as either having been filed by him or served on him in prior proceedings.

12 Accordingly, the court will order respondent to provide Lodged Documents 1 and 2 to petitioner.

13 It is thus ORDERED that:

14 1. Petitioner's motion to strike the answer, construed as a request for discovery, is
15 granted in part, and respondent shall provide copies of Documents 1 and 2 lodged in support of
16 respondent's answer to petitioner within 10 days of the date of this order.

17 2. Petitioner's request for an extension of time is granted and petitioner has 45 days from
18 the date this order is served to file and serve a traverse.

19 DATED: September 22, 2010.

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21 EDMUND F. BRENNAN
22 UNITED STATES MAGISTRATE JUDGE
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