

1 However, because this court did not consider whether petitioner qualified for the equitable
2 exception based on actual innocence, the Ninth Circuit remanded the case for consideration of
3 that single issue, citing *McQuiggin. Id.*

4 On remand, this court ordered supplemental briefing and the state court record to address
5 the actual innocence issue. ECF No. 40. The court has received the record and the briefs, but
6 stayed the case at petitioner's request while petitioner asked for DNA testing through the state
7 courts. ECF No. 60. Although petitioner has provided several status reports regarding the
8 progress of the DNA testing, he has not updated the court since March 29, 2017. Accordingly, it
9 is hereby ORDERED that, within 14 days of the date of this order, petitioner shall file a status
10 report informing the court of the status of the state DNA testing.

11 So ordered.

12 Dated: January 10, 2018.

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14 EDMUND F. BRENNAN
15 UNITED STATES MAGISTRATE JUDGE
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