(HC) Summers v. Trimbal Doc. 43

HEATHER E. WILLIAMS, CA Bar #122664 1 Federal Defender ANN C. M°CLINTOCK, CA Bar #141313 2 Assistant Federal Defender 3 801 I Street, 3rd Floor Sacramento, California 95814 4 Telephone: (916) 498-5700 5 Attorneys for Petitioner GREGÓRY SUMMERS 6 7 8 IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA 9 10 11 GREGORY SUMMERS, No. 2:11-cv-02584 LKK AC PETITIONER'S UNOPPOSED 12 Petitioner, REQUEST FOR AN EXTENSION OF v. 13 TIME WARDEN TRIMBALL, 14 Respondent. 15 16 Petitioner GREGORY SUMMERS, by and through court-appointed counsel, 17 requests a 94-day extension of time to file either (1) a supplemental brief, or (2) any motion(s) 18 to amend the petition, to expand the record, or for an evidentiary hearing. This request is 19 unopposed. The current scheduling order requires Petitioner to file his supplemental brief or 20 motion(s) on or before August 30, 2013. This request asks that this deadline be moved to 21 December 2, 2013. This request is made pursuant to Rule 6 of the Federal Rules of Civile 22 Procedure and Eastern District Local Rule 144, and is based on the attached declaration of Ann 23 C. M^cClintock. 24 Dated: August 20, 2013 Respectfully submitted, 25 HEATHER E. WILLIAMS 26 Federal Defender /s/ Ann C. M^cClintock 27 ANN C. M°CLINTOCK Attorney for Petitioner GREGORY SUMMERS 28

Summers v. Trimball 2:11-cv-2584 LKK AC Petitioner's Unopposed Req for 90-Day Extension of Time

DECLARATION OF ANN C. M°CLINTOCK

I, ANN C. M°CLINTOCK, declare as follows:

- 1. I am an attorney licensed to practice in the state of California and admitted to practice in the state and federal courts; I am employed with the Office of the Federal Defender for the Eastern District of California. I represent Petitioner Gregory Summers in this matter.
- 2. Despite repeated efforts, I have yet to obtain the case files from Mr. Summers' trial counsel. Trial counsel, Keith J. Staten, has informed us that he needs to search his storage for Summers's files. But to date, we have not received any records from him.
- 3. The psychologist's and psychiatrist's records, which are relevant to assessing the two mental health reports prepared at the superior court level, apparently no longer exist. I had expected to be able to obtain some historical mental health records for Mr. Summers from these sources.
- 4. Thus, additional time is needed to obtain the trial counsel files and to obtain all the relevant mental health records for Mr. Summers, especially those that predated his trial and offense conduct related to this habeas matter.
- 5. I believe that the additional time requested, 94 days, is the minimum amount of time needed to do this work, complete my investigation, and prepare the supplemental brief or motions.
- 6. I informed counsel for respondent, Deputy Attorney General Clifford E. Zall, about this extension request. Mr. Zall has no objection to this change to the schedule in this matter.

The foregoing is true and correct. Executed under penalty of perjury this 20th day of August, 2013, at Sacramento, California.

s/ Ann C. M°Clintock ANN C. M°CLINTOCK

2:11-cv-2584 LKK AC

[PROPOSED] ORDER

Petitioner's request for an extension of time is GRANTED. Either a supplemental brief or any motion(s) to amend the petition, to expand the record, or for an evidentiary hearing shall be filed no later than December 2, 2013.

IT IS SO ORDERED.

DATED: August 21, 2013



ALLISON CLAIRE UNITED STATES MAGISTRATE JUDGE