

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DENNIS NEWTON ERVINE,

No. 2:15-cv-1916 TLN DAD

Petitioner,

DEATH PENALTY CASE

1

WARDEN, San Quentin State Prison,

ORDER

Respondent.

17 The undersigned held a first case management conference on October 16, 2015. Assistant
18 Federal Defenders Tivon Schardl and Karl Saddlemire appeared for petitioner. Deputy Attorney
19 General Laura Wetzel Simpton appeared for respondent. At the conference counsel for both
20 parties stipulated that the federal habeas petition in this action is due to be filed and served by
21 August 19, 2016. The court directed respondent to lodge the state court record electronically.
22 Respondent's counsel stated that respondent should be able to do so within the 45-day time limit
23 set out in Local Rule 191(h)(1). However, recognizing that electronic lodging of the record is
24 new and time-consuming, the court assured respondent that a request for a reasonable extension
25 of time to lodge the record should be granted if it proves necessary.

Accordingly, IT IS HEREBY ORDERED as follows:

1. By August 19, 2016, petitioner shall file the petition pursuant to 28 U.S.C. § 2254.

References to the state court record in the petition shall use the identification system

1 set out in the Notice of Lodging, described below. Each reference shall thus include
2 the docket number for the Notice of Lodging, the attachment number, and the Bate-
3 stamp numbers followed, in parentheses, by the abbreviated name of the volume of the
4 record and any internal pagination. For example, if the Notice of Lodging appears as
5 electronic court filing number 40 and the first attachment is the first 300 pages of the
6 Clerk's Transcript on Appeal, the citation form would be "ECF No. 40-1, AG00001-
7 AG00300 (CT 1-300)). The petition need not include points and authorities regarding
8 the application of 28 U.S.C. § 2254(d).

9 2. By November 6, 2015, respondent shall file a Notice of Lodging and lodge with the
10 court the state court record as set out below.

11 a. The lodged record shall meet the following requirements:

12 (i) It shall contain (a) transcripts of the state trial court proceedings; (b)
13 appellant's and respondent's briefs on direct appeal to the California
14 Supreme Court, and the opinion or orders of that Court; and (c)
15 petitioner's and respondent's briefs in any state court habeas corpus
16 proceedings, and all opinions, orders and transcripts of such
17 proceedings.

18 (ii) The entire record shall be Bate-stamped. Bate-stamp numbering shall
19 be in the format AG00001, AG00002, etc. to distinguish it from other
20 numbering systems in the record.

21 (iii) The entire record shall be scanned.

22 (iv) The entire record shall be converted to an OCR format.

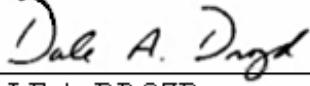
23 (v) State sealed documents shall be lodged in paper form.

24 b. The Notice of Lodging shall be filed on the court's electronic filing system. Each
25 item of the state court record shall be lodged as an attachment to the Notice of
26 Lodging. For each separate attachment, the Notice of Lodging shall identify the
27 attachment number, the Bate-stamp numbers, and the name of that part of the
28 record, including its internal pagination, if any. For example, the attachment

1 identified above in paragraph 1 would be listed in the Notice of Lodging as:
2 "Attachment #1, AG00001-AG00300 (CT 1-300)." The identical identifying
3 information shall also be included as the docket title of each electronically lodged
4 attachment to the Notice of Lodging. To the extent possible, each separate paper
5 volume of the state court record shall be lodged as one attachment.

6 3. After the petition is filed, the court will hold a case management conference to discuss
7 whether the petition contains unexhausted claims and to set any due dates for the filing
8 of an answer and/or other briefing as may be deemed appropriate by the court at that
9 time after consulting with counsel.

10 Dated: October 16, 2015

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12 DALE A. DROZD
13 UNITED STATES MAGISTRATE JUDGE

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