

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
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT R. BORYS,
Petitioner,
v.
DANIEL PARAMO,
Respondent.

No. 2:15-cv-1942 WBS AC P

ORDER

Petitioner, a state prisoner proceeding pro se and in forma pauperis, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Currently before the court is respondent’s motion to suspend briefing. ECF No. 23.

By order filed October 6, 2016, respondent was ordered to respond to the petition. ECF No. 16. Respondent requested and was granted one thirty day extension of time (ECF Nos. 21, 22) and now seeks to suspend briefing in order to obtain sealed portions of the trial court transcript (ECF No. 23). One of petitioner’s claims is that the trial court improperly excluded evidence of his victim’s sexual conduct, precluding him from presenting a complete defense (ECF No. 11 at 5, 48-53), and the sealed portion of the transcript relates to an evidentiary motion on the matter. Petitioner appears to quote portions of the sealed transcript in his petition, indicating that he may be in possession of a copy of the sealed transcript. *Id.* at 52. Respondent requests that petitioner be required to provide the sealed portions of the transcript, or advise that

1 he is unable to do so, as required by 28 U.S.C. § 2254(f).

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. Respondent's motion to suspend briefing (ECF No. 23) is granted and respondent's
4 deadline to respond to the petition is vacated.

5 2. Within thirty days of service of this order, petitioner must provide respondent with a
6 copy of the sealed portion of the Clerk's Transcript (pages 198-204). Petitioner should **not** file a
7 copy with the court. If petitioner is unable to provide a copy of the sealed transcript, then within
8 thirty days of service of this order he must file a notice with the court explaining why he cannot
9 provide respondent with a copy of the sealed transcript.

10 DATED: January 3, 2017

11 
12 ALLISON CLAIRE
13 UNITED STATES MAGISTRATE JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28