

1 If petitioner is simply seeking to submit additional exhibits to support her petition, she
2 may do so. Such documents should be clearly labeled as exhibits to the petition and should
3 include an index or table of contents. Petitioner is informed, however, that in reviewing her
4 claims this court may be limited in the first instance to consideration of whatever exhibits and
5 documents were before the state courts when they ruled on her claims. See 28 U.S.C. §
6 2254(d)(1)&(2); Cullen v. Pinholster, 563 U.S. 170, 181-182 (2011). In most cases, evidence
7 presented for the first time in federal court can only be considered if this court first concludes that
8 the state court decision was objectively unreasonable. Id. If that happens, the court may then—
9 under certain circumstances—expand the record with additional evidence or order an evidentiary
10 hearing. Rule 7, Rules Governing Section 2254 Cases (Expanding the Record); 28 U.S.C. §
11 2254(e)(1)&(2) (evidentiary hearings). The undersigned expresses no opinion on whether such
12 evidentiary development might be appropriate in this case. Petitioner is free to file additional
13 exhibits, but whether the court may consider them remains to be determined. Because the court
14 has not yet conducted § 2254(d) review, a motion for expansion of the record under Habeas Rule
15 7 is premature.

16 Petitioner’s present request also states that the docket reflects she was mailed an “Order
17 on Motion for Miscellaneous Relief” on July 28, 2020, but that she does not know what that is or
18 whether she received a copy. The docket entry is referring to the July 28, 2020 order granting
19 petitioner’s request to use the arguments in the petition and appeal brief as her traverse and
20 deeming the petition submitted. ECF No. 45.

21 Accordingly, IT IS HEREBY ORDERED that petitioner’s motion for clarification, ECF
22 No. 48, is GRANTED to the extent set forth above.

23 DATED: February 3, 2021

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25 ALLISON CLAIRE
26 UNITED STATES MAGISTRATE JUDGE
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