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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DARRYL WAYNE HILL,
Petitioner,
v.
BEN CURRY, warden,
Respondent.

No. C 05-4572 SI (pr)

**ORDER LIFTING STAY,
REOPENING ACTION, AND
SETTING BRIEFING SCHEDULE**

United States District Court
For the Northern District of California

Darryl Wayne Hill filed this action seeking a writ of habeas corpus under 28 U.S.C. § 2254. The court issued an order to show cause why the writ should not be granted on any of the four cognizable claims in the petition. Respondent filed his answer and noted that state court remedies had not been exhausted as to Claim 2. Hill thereafter requested a stay of the proceedings while he exhausted state court remedies as to that claim. The court stayed the action and administratively closed the action.

Hill has now exhausted state court remedies as to Claim 2 and moves to lift the stay and go forward with the proceedings. Respondent does not oppose the motion to lift the stay.

Upon due consideration, the court GRANTS the unopposed motion to lift the stay. (Docket # 12.) The stay is lifted. The clerk will REOPEN this action that had been closed administratively. At the time the court stayed the action, respondent had filed an answer and petitioner had not filed a traverse. It is unclear whether respondent wishes to make any further argument with regard to the now-exhausted Claim 2, as he already argued that it was


1 unexhausted and meritless. The court will provide respondent an opportunity to make further
2 argument with regard to Claim 2 and will provide petitioner an opportunity to file a traverse that
3 addresses all four claims in his petition. The court now sets the following briefing schedule:

4 1. Respondent must file and serve upon petitioner, on or before **June 15, 2007**, an
5 amendment to his answer making any arguments he wishes as to Claim 2. The court will
6 consider the answer already on file with regard to Claims 1, 3, and 4, and no further briefing
7 from respondent is needed on those claims. If no amendment to the answer is filed, the court
8 will consider the argument in the existing answer as to Claim 2.

9 2. If petitioner wishes to respond to the answer and any amendment thereto, he must
10 do so by filing a traverse with the court and serving it on respondent on or before **July 27, 2007**.

11 IT IS SO ORDERED.

12 DATED: May 15, 2007

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15 SUSAN ILLSTON
16 United States District Judge
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