

1  
2  
3  
4  
5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
7

8 ROBERT C. NAWI,

No. C 07-261 SI

9 Petitioner,

**ORDER GRANTING PETITIONER'S  
MOTION TO REOPEN ACTION, TO  
LIFT STAY, AND FOR LEAVE TO  
AMEND PETITION**

10 v.

11 R. EVANS, Warden,

12 Respondent.  
13 \_\_\_\_\_/

14 By order filed February 25, 2008, the Court granted petitioner's motion for stay and abeyance  
15 to allow petitioner to exhaust his state court remedies regarding his claim of ineffective assistance of  
16 appellate counsel. The order directed petitioner to file a motion to reopen this action within 30 days of  
17 exhausting the unexhausted claim. Petitioner informs the Court that on February 11, 2009, the  
18 California Supreme Court summarily denied his petition for writ of habeas corpus which raised the  
19 ineffective assistance of appellate counsel claim. Petitioner now moves to reopen the action and lift the  
20 stay, and for leave to amend the petition to include the newly exhausted claim.

21 The Court GRANTS the motion. (Docket No. 20). The Court previously found that petitioner's  
22 claims are cognizable in a federal habeas action. The Clerk shall serve by certified mail a copy of this  
23 order, the amended petition and all attachments thereto upon respondent and respondent's attorney, the  
24 Attorney General of the State of California. The Clerk shall also serve a copy of this order on petitioner  
25 and petitioner's counsel at the mailing address provided.


26 Respondent must file and serve upon petitioner, on or before **April 24, 2009**, an answer  
27 conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why  
28 a writ of habeas corpus should not be issued. Respondent must file with the answer a copy of all

1 portions of the transcript that have been previously transcribed and that are relevant to a determination  
2 of the issues presented by the petition.<sup>1</sup> If petitioner wishes to respond to the answer, he must do so by  
3 filing a traverse with the Court and serving it on respondent on or before **May 29, 2009**.

4 Since petitioner is now represented by counsel, all counsel are informed that the case number  
5 for future filings is C-07-261 SI, without the “(pr).”

6  
7 **IT IS SO ORDERED.**

8  
9 Dated: March 20, 2009

  
\_\_\_\_\_  
10 SUSAN ILLSTON  
11 United States District Judge

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27 \_\_\_\_\_  
28 <sup>1</sup> Respondent may incorporate by reference the portions of the transcript that were previously  
filed in response to the original petition, and need only supplement that transcript as necessary to  
address the new claim of ineffective assistance of appellate counsel.