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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARVIN PETE WALKER,  
Plaintiff,  
v.  
RON DAVIS, et al.  
Defendants.

Case No. [94-cv-01997-PJH](#)

**ORDER MODIFYING JUNE 10, 2016  
ORDER RE BRIEFING SCHEDULE  
FOR REMAINING CLAIMS**

Re: Dkt. No. 247

On June 10, 2016, the Court adopted the parties' proposed briefing schedule for Petitioner's penalty phase claims. ECF Doc. No. 247. The Court now **MODIFIES** the June 10, 2016 Order as follows:

- (1) On or before March 17, 2017, Petitioner must file his Opening Brief regarding
  - (A) his claim for ineffective assistance of counsel at the penalty phase, claims 2A, 2E, and 2F<sup>1</sup>;
  - (B) those procedurally defaulted claims for which Petitioner contends that cause and prejudice due to ineffective assistance of counsel should excuse the procedural default, claims 16, 19B(e), 19B(f), 19B(aa), and 19B(cc); and
  - (C) all remaining claims, which the court determines are claims 21<sup>2</sup> and 22.
- (2) On or before May 15, 2017, Respondent must file an Opposition.

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<sup>1</sup> The court acknowledges Petitioner's consistent and continuing objection to any and all division of his claims into "sub-claims" by the State and this Court. See ECF Doc. No. 156 at 10-11 (citing *Harris v. Wood*, 64 F.3d 1432, 1438 (9th Cir. 1995) ("[P]rejudice may result from the cumulative impact of multiple deficiencies.") The reference to sub-parts of claims above does not waive that objection and is provided solely for ease of reference.

<sup>2</sup> The claim 21 argument in ECF Doc. No. 236 shall be treated as Petitioner's Opening Brief for that claim. Petitioner may not re-argue claim 21 in his next Opening Brief, but may address any argument by Respondent in his Reply brief.

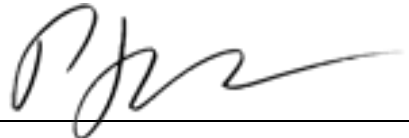
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(3) On or before June 30, 2017, Petitioner must file a Reply.

The Court has already disposed of claim 2D (*see* ECF Doc. No. 245) and will not entertain any more briefing on that claim. The portion of the June 10, 2016 Order relating to claim 2D is therefore **VACATED**.

**IT IS SO ORDERED.**

Dated: January 27, 2017



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HON. PHYLLIS J. HAMILTON  
United States District Judge