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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Michael Wayne Hunter,

NO. C 06-07707 JW

Petitioner,

**ORDER LIFTING STAY AND
REOPENING CASE; REQUESTING
RESPONDENT TO ANSWER**

v.

James A. Yates, Warden, et al.,

Respondents.

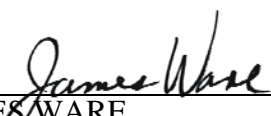
On July 16, 2009, Petitioner filed a “Notice of Completion of Exhaustion of State Remedies.” (Docket Item No. 18.) In light of Petitioner’s filing showing that he has exhausted his state remedies as to his Third, Fourth and Fifth Claims, the Court lifts the stay on the case. The Clerk of Court shall reopen this case and the parties shall adhere to the following schedule:

1. Respondent shall file with the Court and serve on Petitioner, within **sixty (60) days** of the issuance of this Order, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted. Respondent shall file with the answer and serve on Petitioner a copy of all portions of the underlying state criminal record that have been transcribed previously and that are relevant to a determination of the issues presented by the petition.
2. If Petitioner wishes to respond to the answer, he shall do so by filing a traverse with the Court and serving it on Respondent within **thirty (30) days** of his receipt of the answer.

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3. Respondent may file a motion to dismiss on procedural grounds in lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an opposition or statement of non-opposition within **thirty (30) days** of receipt of the motion, and Respondent shall file with the Court and serve on Petitioner a reply within **fifteen (15) days** of receipt of any opposition.
4. It is Petitioner’s responsibility to prosecute this case. Petitioner is reminded that all communications with the Court must be served on Respondent by mailing a true copy of the document to Respondent’s counsel. Petitioner must keep the Court and all parties informed of any change of address by filing a separate paper captioned “Notice of Change of Address.” He must comply with the Court’s Orders in a timely fashion. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

Dated: October 30, 2009



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Allen Robert Crown allen.crown@doj.ca.gov
3 Daniel Bennett Harris dbh2007@sbcglobal.net

4 **Dated: October 30, 2009**

Richard W. Wieking, Clerk

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6 **By: /s/ JW Chambers**
Elizabeth Garcia
Courtroom Deputy

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