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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DAVID ANDREW REDD

vs.

TRIMBLE, WARDEN, ET. AL.

Plaintiff,

Defendants.

CASE NO. 11-cv-1275 LAB (WMC)

**ORDER GRANTING
RESPONDENT’S MOTION FOR
EXTENSION OF TIME
[DOC. NO. 7.]**

The Court has received Respondent’s application for an enlargement of time to file a response. [ECF. No. 7.] Good cause appearing, Respondent’s application is **GRANTED**.

IT IS ORDERED that:

- a. If Respondent contends the Petition can be decided without the Court’s reaching the merits of Petitioner’s claims (e.g., because Respondent contends Petitioner has failed to exhaust any state remedies as to any ground for relief alleged in the Petition, or that the Petition is barred by the statute of limitations, or that the Petition is subject to dismissal under Rule 9 of the Rules Governing § 2254 Cases, or that all of the claims are procedurally defaulted, or that Petitioner is not in custody), Respondent shall file a motion to dismiss pursuant to Rule 4 of the Rules Governing § 2254 Cases no later than **September 23, 2011**. The motion to dismiss shall not address the merits of Petitioner’s claims, but rather shall address all grounds upon which

1 Respondent contends dismissal without reaching the merits of Petitioner's
2 claims is warranted.¹ At the time the motion to dismiss is filed, Respondent
3 shall lodge with the Court all records bearing on Respondent's contention in
4 this regard. A hearing date is not required for the motion to dismiss.

5 b. If Respondent files a motion to dismiss, Petitioner shall file his opposition,
6 if any, to the motion no later than **October 24, 2011**. At the time the
7 opposition is filed, Petitioner shall lodge with the Court any records not
8 lodged by Respondent which Petitioner believes may be relevant to the
9 Court's determination of the motion.

10 c. Unless the Court orders otherwise, Respondent shall not file a reply to
11 Petitioner's opposition to a motion to dismiss. If the motion is denied, the
12 Court will afford Respondent adequate time to respond to Petitioner's claims
13 on the merits.

14 d. If Respondent does not contend that the Petition can be decided without the
15 Court reaching the merits of Petitioner's claims, Respondent shall file and
16 serve an answer to the Petition, and a memorandum of points and authorities
17 in support of such answer, pursuant to Rule 5 of the Rules Governing § 2254
18 Cases no later than **September 30, 2011**. At the time the answer is filed,
19 Respondent shall lodge with the Court all records bearing on the merits of
20 Petitioner's claims. The lodgments shall be accompanied by a notice of
21 lodgment which shall be captioned "**Notice of Lodgment in 28 U.S.C.**
22 **§ 2254 Habeas Corpus Case — To Be Sent to Clerk's Office.**"

23 Respondent shall not combine separate pleadings, orders or other items into a
24 combined lodgment entry. Each item shall be numbered separately and
25 sequentially.

26 e. Petitioner may file a traverse to matters raised in the answer no later than
27

28 ¹If Respondent contends Petitioner has failed to exhaust any state remedies as to any ground for relief alleged in the Petition, the motion to dismiss shall also specify the state remedies still available to Petitioner.

