

1 accordance with Rule 4 of the rules governing petitions for a writ of habeas corpus
2 pursuant to 28 U.S.C. § 2254, and upon a preliminary review of the First Amended
3 Petition, **IT IS ORDERED** that:

4 1. The Clerk of this Court shall promptly (a) serve a copy of the Petition and a
5 copy of this Order on the Attorney General for the State of California, or her authorized
6 agent; and (b) serve a copy of this Order on Petitioner.

7 2. Respondent must file a “Notice of Appearance” no later than **September 12,**
8 **2016**

9 3. If Respondent contends the Petition can be decided without the Court’s
10 reaching the merits of Petitioner’s claims (e.g., because Respondent contends Petitioner
11 has failed to exhaust any state remedies as to any ground for relief alleged in the Petition,
12 or that the Petition is barred by the statute of limitations, or that the Petition is subject to
13 dismissal under Rule 9 of the Rules Governing § 2254 Cases, or that all of the claims are
14 procedurally defaulted, or that Petitioner is not in custody), Respondent shall file a
15 motion to dismiss pursuant to Rule 4 of the Rules Governing § 2254 Cases no later than
16 **October 28, 2016**. The motion to dismiss shall not address the merits of Petitioner’s
17 claims, but rather shall address all grounds upon which Respondent contends dismissal
18 without reaching the merits of Petitioner’s claims is warranted.¹ At the time the motion
19 to dismiss is filed, Respondent shall lodge with the Court all records bearing on
20 Respondent’s contention in this regard. A hearing date is not required for the motion to
21 dismiss.

22 4. If Respondent files a motion to dismiss, Petitioner shall file his opposition, if
23 any, to the motion no later than **November 28, 2016**. At the time the opposition is filed,
24 Petitioner shall lodge with the Court any records not lodged by Respondent which
25 Petitioner believes may be relevant to the Court’s determination of the motion.

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

1 5. Unless the Court orders otherwise, Respondent shall not file a reply to
2 Petitioner’s opposition to a motion to dismiss. If the motion is denied, the Court will
3 afford Respondent adequate time to respond to Petitioner’s claims on the merits.

4 6. If Respondent does not contend that the Petition can be decided without the
5 Court reaching the merits of Petitioner’s claims, Respondent shall file and serve an
6 answer to the Petition, as well as points and authorities in support of such answer, no later
7 than **October 28, 2016**. At the time the answer is filed, Respondent shall lodge with the
8 Court all records bearing on the merits of Petitioner’s claims. The lodgments shall be
9 accompanied by a notice of lodgment which shall be captioned “**Notice of Lodgment in**
10 **28 U.S.C. § 2254 Habeas Corpus Case — To Be Sent to Clerk’s Office.**” Respondent
11 shall not combine separate pleadings, orders or other items into a combined lodgment
12 entry. Each item shall be numbered separately and sequentially.

13 7. Petitioner may file a traverse to matters raised in the answer no later than
14 **November 28, 2016**. Any traverse by Petitioner (a) shall state whether Petitioner admits
15 or denies each allegation of fact contained in the answer; (b) shall be limited to facts or
16 arguments responsive to matters raised in the answer; and (c) shall not raise new grounds
17 for relief that were not asserted in the Petition. Grounds for relief withheld until the
18 traverse will not be considered. No traverse shall exceed ten (10) pages in length absent
19 advance leave of Court for good cause shown.

20 8. A request by a party for an extension of time within which to file any of the
21 pleadings required by this Order should be made in advance of the due date of the
22 pleading, and the Court will grant such a request only upon a showing of good cause.
23 Any such request shall be accompanied by a declaration under penalty of perjury
24 explaining why an extension of time is necessary.

25 9. Unless otherwise ordered by the Court, this case shall be deemed submitted
26 on the day following the date Petitioner’s opposition to a motion to dismiss and/or his
27 traverse is due.

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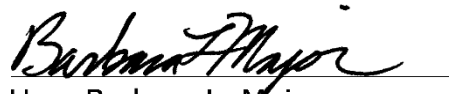
1 10. Every document delivered to the Court must include a certificate of service
2 attesting that a copy of such document was served on opposing counsel (or on the
3 opposing party, if such party is not represented by counsel). Any document delivered to
4 the Court without a certificate of service will be returned to the submitting party and
5 disregarded by the Court.

6 11. Petitioner shall immediately notify the Court and counsel for Respondent of
7 any change of Petitioner's address. If Petitioner fails to keep the Court informed of
8 where Petitioner may be contacted, this action will be subject to dismissal for failure to
9 prosecute.

10 12. Petitioner has consented to proceed before a United States Magistrate Judge.
11 Respondent must execute and return either a "Consent to Exercise of Jurisdiction by a
12 United States Magistrate Judge and Order of Reference" or a "Notice of Intent to Proceed
13 before District Judge" to the Clerk of Court on or before **October 10, 2016**. The parties
14 are free to withhold consent without adverse substantive consequences. The Clerk of
15 Court must send the appropriate Southern District forms to Respondent along with this
16 Order.

17 **IT IS SO ORDERED.**

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19 Dated: 8/24/2016


20 Hon. Barbara L. Major
21 United States Magistrate Judge
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