



1 **ORDERED** that:

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

6 2. If Respondent contends the Petition can be decided without the  
7 Court's reaching the merits of Petitioner's claims (e.g., because Respondent  
8 contends Petitioner has failed to exhaust any state remedies as to any ground  
9 for relief alleged in the Petition, or that the Petition is barred by the statute  
10 of limitations, or that the Petition is subject to dismissal under Rule 9 of the  
11 Rules Governing § 2254 Cases, or that all of the claims are procedurally  
12 defaulted, or that Petitioner is not in custody), Respondent shall file a motion  
13 to dismiss pursuant to Rule 4 of the Rules Governing § 2254 Cases no later  
14 than **May 22, 2017**. The motion to dismiss shall not address the merits of  
15 Petitioner's claims, but rather shall address all grounds upon which  
16 Respondent contends dismissal without reaching the merits of Petitioner's  
17 claims is warranted.<sup>1</sup> At the time the motion to dismiss is filed, Respondent  
18 shall lodge with the Court all records bearing on Respondent's contention in  
19 this regard. A hearing date is not required for the motion to dismiss.

20 3. If Respondent files a motion to dismiss, Petitioner shall file his  
21 opposition, if any, to the motion no later than **June 22, 2017**. At the time the  
22 opposition is filed, Petitioner shall lodge with the Court any records not  
23 lodged by Respondent which Petitioner believes may be relevant to the  
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26 <sup>1</sup> If Respondent contends Petitioner has failed to exhaust any state remedies  
27 as to any ground for relief alleged in the Petition, the motion to dismiss shall  
also specify the state remedies still available to Petitioner.

1 Court's determination of the motion.

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

6 5. If Respondent does not contend that the Petition can be decided  
7 without the Court reaching the merits of Petitioner's claims, Respondent  
8 shall file and serve an answer to the Petition, as well as points and  
9 authorities in support of such answer, no later than **May 22, 2017**. At the  
10 time the answer is filed, Respondent shall lodge with the Court all records  
11 bearing on the merits of Petitioner's claims. The lodgments shall be  
12 accompanied by a notice of lodgment which shall be captioned "**Notice of**  
13 **Lodgment in 28 U.S.C. § 2254 Habeas Corpus Case — To Be Sent to**  
14 **Clerk's Office.**" Respondent shall not combine separate pleadings, orders or  
15 other items into a combined lodgment entry. Each item shall be numbered  
16 separately and sequentially.

17 6. Petitioner may file a traverse to matters raised in the answer no  
18 later than **June 22, 2017**. Any traverse by Petitioner (a) shall state whether  
19 Petitioner admits or denies each allegation of fact contained in the answer;  
20 (b) shall be limited to facts or arguments responsive to matters raised in the  
21 answer; and (c) shall not raise new grounds for relief that were not asserted  
22 in the Petition. Grounds for relief withheld until the traverse will not be  
23 considered. No traverse shall exceed ten (10) pages in length absent advance  
24 leave of Court for good cause shown.

25 7. A request by a party for an extension of time within which to file  
26 any of the pleadings required by this Order should be made in advance of the  
27 due date of the pleading, and the Court will grant such a request only upon a

1 showing of good cause. Any such request shall be accompanied by a  
2 declaration under penalty of perjury explaining why an extension of time is  
3 necessary.

4 8. Unless otherwise ordered by the Court, this case shall be deemed  
5 submitted on the day following the date Petitioner's opposition to a motion to  
6 dismiss and/or his traverse is due.

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

12 10. Petitioner shall immediately notify the Court and counsel for  
13 Respondent of any change of Petitioner's address. If Petitioner fails to keep  
14 the Court informed of where Petitioner may be contacted, this action will be  
15 subject to dismissal for failure to prosecute.

16 **IT IS SO ORDERED.**

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18 Dated: March 20, 2017

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20 Hon. Mitchell D. Dembin  
21 United States Magistrate Judge