



1           3.     If Respondent contends the Petition can be decided without the Court’s  
2 reaching the merits of Petitioner’s claims (e.g., because Respondent contends Petitioner  
3 has failed to exhaust any state remedies as to any ground for relief alleged in the Petition,  
4 or that the Petition is barred by the statute of limitations, or that the Petition is subject to  
5 dismissal under Rule 9 of the Rules Governing § 2254 Cases, or that all of the claims are  
6 procedurally defaulted, or that Petitioner is not in custody), Respondent must file a  
7 motion to dismiss pursuant to Rule 4 of the Rules Governing § 2254 Cases no later than  
8 **January 12, 2018**. The motion to dismiss must not address the merits of Petitioner’s  
9 claims, but rather must address all grounds upon which Respondent contends dismissal  
10 without reaching the merits of Petitioner’s claims is warranted.<sup>1</sup> At the time the motion  
11 to dismiss is filed, Respondent must lodge with the Court all records bearing on  
12 Respondent’s contention in this regard. A hearing date is not required for the motion to  
13 dismiss.

14           4.     If Respondent files a motion to dismiss, Petitioner must file his opposition, if  
15 any, to the motion no later than **February 12, 2018**. At the time the opposition is filed,  
16 Petitioner must lodge with the Court any records not lodged by Respondent which  
17 Petitioner believes may be relevant to the Court’s determination of the motion.

18           5.     Unless the Court orders otherwise, Respondent must not file a reply to  
19 Petitioner’s opposition to a motion to dismiss. If the motion is denied, the Court will  
20 afford Respondent adequate time to respond to Petitioner’s claims on the merits.

21           6.     If Respondent does not contend that the Petition can be decided without the  
22 Court reaching the merits of Petitioner’s claims, Respondent must file and serve an  
23 answer to the Petition, and a memorandum of points and authorities in support of such  
24 answer, pursuant to Rule 5 of the Rules Governing § 2254 Cases no later than **January**  
25 **12, 2018**. At the time the answer is filed, Respondent must lodge with the Court all  
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27 <sup>1</sup> 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 must also specify the state remedies still available to  
Petitioner.

1 records bearing on the merits of Petitioner’s claims. The lodgments must be  
2 accompanied by a notice of lodgment which must be captioned “**Notice of Lodgment in**  
3 **28 U.S.C. § 2254 Habeas Corpus Case — To Be Sent to Clerk’s Office.**” Respondent  
4 must not combine separate pleadings, orders or other items into a combined lodgment  
5 entry. Each item must be numbered separately and sequentially.

6 7. Petitioner may file a traverse to matters raised in the answer no later than  
7 **February 12, 2018.** Any traverse by Petitioner (a) must state whether Petitioner admits  
8 or denies each allegation of fact contained in the answer; (b) must be limited to facts or  
9 arguments responsive to matters raised in the answer; and (c) must not raise new grounds  
10 for relief that were not asserted in the Petition. Grounds for relief withheld until the  
11 traverse will not be considered. **No traverse can exceed ten (10) pages in length absent**  
12 **advance leave of Court for good cause shown.**

13 8. A request by a party for an extension of time within which to file any of the  
14 pleadings required by this Order must be made at least seven (7) days in advance of the  
15 due date of the pleading, and the Court will grant such a request only upon a showing of  
16 good cause. Any such request must be accompanied by a declaration under penalty of  
17 perjury explaining why an extension of time is necessary.

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

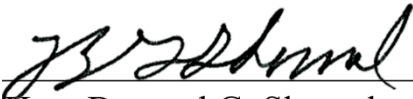
21 10. Every document delivered to the Court must include a certificate of service  
22 attesting that a copy of such document was served on opposing counsel (or on the  
23 opposing party, if such party is not represented by counsel). Any document delivered to  
24 the Court without a certificate of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

26 11. Petitioner must immediately notify the Court and counsel for Respondent of  
27 any change of Petitioner’s address. If Petitioner fails to keep the Court informed of  
28 where Petitioner may be contacted, this action will be subject to dismissal for failure to

1 prosecute.

2 **IT IS SO ORDERED.**

3 Dated: October 31, 2017

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5 Hon. Bernard G. Skomal  
6 United States Magistrate Judge

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