

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-01134-BNB

DARREL GUICE,

Applicant,

v.

JOHN DAVIS, Warden, and  
THE ATTORNEY GENERAL STATE OF COLORADO,

Respondents.

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ORDER TO SUPPLEMENT PRE-ANSWER RESPONSE

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On June 4, 2013, the Court directed the Respondents to file a Pre-Answer Response addressing the affirmative defenses of timeliness under 28 U.S.C. § 2244(d) and/or exhaustion of state court remedies under 28 U.S.C. § 2254(b)(1)(A), if Respondents intended to raise these defenses. On June 25, 2013, Respondents filed a Pre-Answer Response raising the defense of failure to exhaust state court remedies. Applicant contends that exhaustion should be excused because of an inordinate delay by the state appellate court in processing his direct appeal. According to the exhibits attached to the Pre-Answer Response, Applicant had not yet filed his direct appeal opening brief at the time the Pre-Answer response was filed because the record on appeal was incomplete. Accordingly, it is

ORDERED that **on or before August 20, 2013**, Respondents shall file with the Court a Supplement to the Pre-Answer Response, along with any relevant exhibits, indicating the date on which Applicant's opening brief was filed in the Colorado Court of

Appeals and otherwise reporting on the status of Applicant's direct appeal.

Dated August 6, 2013, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge