IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEBRASKA

BONG H. CHAE, Petitioner, v. ROBERT HOUSTON, Director of Department of Correctional Services, Respondent.	)	8:09CV416 MEMORANDUM AND ORDER

This matter is before the Court on petitioner's motion to reconsider order (Filing No. 7) and motion to expand record (Filing No. 10). Both motions will be granted.

On December 2, 2009, the Court conducted an initial review of petitioner's claims as set forth in his petition for writ of habeas corpus ("petition") (Filing No. 6). In doing so, the Court summarized Claim Three of the petition to state that "Petitioner was denied the Fifth Amendment's guaranty against double jeopardy *because* petitioner was convicted of two identical counts of arson." (*Id.* at CM/ECF p. 2.) In his motion to reconsider order, petitioner requests that the Court modify the summary of Claim Three to instead state that "Petitioner was denied the Fifth Amendment's guaranty against double jeopardy because petitioner was charged by information with two identical counts of arson." (Filing No. 7.) The Court has reviewed the petition and agrees that the language set forth by petitioner in

his motion to reconsider order more accurately summarizes his Claim Three. Respondent does not oppose the motion. (*See* Docket Sheet.) Thus, in deciding the merits of the petition, the Court will consider Claim Three, as modified.

Also pending is petitioner's motion to expand record, in which petitioner requests that respondent file the State's "Memorandum Brief in Support of Motion for Summary Affirmance," filed in his direct appeal (Filing No. 10). Again, respondent does not oppose the motion. (*See* Docket Sheet.) It is clear from the record that this document is relevant to the issues raised in the petition. Therefore, respondent shall file the additional requested state court records no later than April 23, 2010. Accordingly,

IT IS ORDERED:

1. Petitioner's motion to reconsider order (Filing No. 7) is granted. Claim Three of the petition is modified as set forth in this memorandum and order.

2. Petitioner's motion to expand record (Filing No. 10) is granted. Respondent shall file the additional state court records no later than April 23, 2010.

3. The Court reminds petitioner that his response to respondent's brief on the merits of the petition is due May 11, 2010.

DATED this 15th day of April, 2010.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court