

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DAVID CARL PHELPS,	)	8:14CV151
	)	
Petitioner,	)	
	)	MEMORANDUM
v.	)	AND ORDER
	)	
MARIO PEART, Warden,	)	
	)	
Respondent.	)	
_____	)	

On initial review of the Amended Petition for a Writ of Habeas Corpus (Filing No. [14](#)), I tentatively find that each of the claims alleged by Petitioner state grounds that are potentially cognizable by this court for purposes of habeas corpus relief, and that the case should be progressed. Because Petitioner indicates his claim of actual innocence will require “full discovery and an evidentiary hearing,” I would like input from counsel regarding case progression, including proposed dates for filing state court records, pleadings, motions, and briefs. Accordingly,

IT IS ORDERED:

1. On initial review, the 10 constitutional claims raised by Petitioner in the Amended Petition for a Writ of Habeas Corpus (Filing No. [14](#)) are potentially cognizable for purposes of federal habeas corpus relief. The parties are cautioned that this determination is preliminary only.
2. No amendments or supplements to the Amended Petition for a Writ of Habeas Corpus shall be filed without first securing leave of court.

3. No discovery shall be undertaken without leave of the court. *See [Rule 6 of the Rules Governing Section 2254 Cases in the United States District Courts](#)*.
4. No later than May 22, 2015, counsel for Petitioner and Respondent shall confer and file a joint motion suggesting a suitable progression of this case. The court will enter an order progressing this case to disposition following the filing of the joint motion.

DATED this 21<sup>st</sup> day of April, 2015.

BY THE COURT:

*Richard G. Kopf*

Senior United States District Judge