

1 Rene L. Valladares
 Federal Public Defender
 2 Nevada Bar No. 11479
 Randolph M. Fiedler
 3 Assistant Federal Public Defender
 Nevada Bar No. 12577
 4 Randolph_Fiedler@fd.org
 Heather Fraley
 5 Assistant Federal Public Defender
 Texas Bar No. 24050621
 6 Heather_Fraley@fd.org
 Brad D. Levenson
 7 Assistant Federal Public Defender
 California Bar No. 166073
 8 Brad_Levenson@fd.org
 411 E. Bonneville Ave., Ste. 250
 9 Las Vegas, NV 89101
 (702) 388-6577
 10 (702) 388-5819 (fax)

11 Attorneys for Petitioner

12 UNITED STATES DISTRICT COURT
 13 DISTRICT OF NEVADA

14 Cary Williams,
 15 Petitioner,
 16 v.
 17 William Gittere, *et al.*,
 18 Respondents.

Case No. 2:98-cv-00056-APG-VCF
**Stipulation and Proposed
 Scheduling Order Regarding:
 (1) Deposition Testimony of Dr.
 Erin Bigler; and (2) Remaining
 Deadlines**
 DEATH PENALTY CASE

20
 21
 22
 23

1 Last fall, the parties filed a Stipulation and Proposed Scheduling Order to
2 Continue Proceedings 90 days.¹ This Court accepted the stipulation, adopted the
3 proposed deadlines, and scheduled the evidentiary hearing to begin on May 16,
4 2022.²

5 IT IS HEREBY STIPULATE AND AGREED that:

6 1. In anticipation of the hearing, the parties have been conferring
7 regarding two issues. First, one of Mr. Williams’s experts, Dr. Erin Bigler, is very
8 ill. The parties have conferred regarding deposing Dr. Bigler and presenting his
9 deposition in court under Fed. R. Civ. P. 32(a). The parties agree that Dr. Bigler
10 “cannot attend or testify [at the hearing] because of . . . illness” Fed. R. Civ. P.
11 32(a)(4). Thus, the parties have agreed to depose Dr. Bigler on March 23, 2022. This
12 deposition will occur virtually starting at 10 a.m. The parties agree this deposition
13 will be admissible, subject to the conditions imposed under Fed. R. Civ. P. 32(a).
14 Williams will the bear the costs, including the audiovisual recording costs.

15 2. Second the parties have conferred regarding the remaining deadlines
16 in this case. Counsel for Mr. Williams requires an additional two weeks to complete
17 his Prehearing Brief. Accordingly, counsel have come to a proposed agreement
18 regarding the remaining deadlines previously set by this Court. The schedule
19 proposed below does not change the hearing date, or the date to contact chambers
20 for marking exhibits: Williams’s prehearing brief is moved two weeks from its
21

22
23 ¹ ECF No. 291.

² ECF No. 292.

1 current deadline; all other deadlines are moved three weeks from their current
2 deadlines.

3 3. The parties ask this Court to modify its previous order and adopt the
4 following schedule for this evidentiary hearing:

5 (a) The evidentiary hearing will take place starting on May 16, 2022.

6 (b) Mr. Williams's pre-hearing brief will be due on February 28, 2022.

7 The State's responsive pre-hearing brief will be due on March 21,
8 2022. Mr. Williams's reply will be due on March 28, 2022.

9 (c) The witness lists and exhibits list will be due on March 31, 2022.

10 (d) Pre-hearing motions will be due on April 7, 2022. Any oppositions
11 or replies will be governed by LR 7-2(b).

12 (e) No later than five days before the hearing begins, the parties will
13 mark and submit exhibits.

14 ///

15 ///

16 ///

17

18

19

20

21

22

23

1 (f) The parties will continue to file status reports at three-month
2 intervals, consistent with the January 14, 2021 order.

3 Dated this 8th day of February, 2022.

4 Rene L. Valladares
Federal Public Defender

Aaron Ford
Attorney General of Nevada

5
6 /s/ Randolph M. Fiedler
Randolph M. Fiedler
7 Assistant Federal Public Defender

/s/ Jessica Perlick
Jessica Perlick
Senior Deputy Attorney General

8
9 /s/ Heather Fraley
Heather Fraley
Assistant Federal Public Defender

/s/ Charles L. Finlayson
Charles L. Finlayson
Senior Deputy Attorney General

10
11 /s/ Brad Levenson
Brad Levenson
12 Assistant Federal Public Defender

1 **ORDER**

2 The parties have submitted a stipulation requesting this Court modify the
3 scheduling order and accept the parties' position on deposing Dr. Bigler. Based on
4 this stipulation and for good cause shown, it is hereby ordered that the following
5 schedule will govern the evidentiary hearing.

6 The Evidentiary Hearing

7 The evidentiary hearing will commence on May 16, 2022, at 9:00 a.m., in Las
8 Vegas courtroom 6C.

9 The Deposition of Dr. Erin Bigler

10 The deposition of Dr. Erin Bigler will occur on **March 23, 2022**, at 10:00
11 a.m., virtually. Dr. Bigler cannot attend the hearing in this case because of illness.
12 This deposition will be admissible during the hearing, subject to the conditions of
13 Fed. R. Civ. P. 32(a).

14 Pre-Hearing Briefs

15 Williams will submit a pre-hearing brief by **February 28, 2022**. The
16 respondents will file a responsive pre-hearing brief by **March 21, 2022**. Williams
17 may file a reply to the respondents' brief by **March 28, 2022**.

18 Witness List and Exhibit List

19 The parties will file witness lists and exhibit lists no later than **March 31,**
20 **2022**. The parties will file a joint exhibit list, identifying the exhibits they agree are
21 admissible. The parties will file separate lists of exhibits that the parties do not
22 agree are admissible.

