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## UNITED STATES DISTRICT COURT

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## DISTRICT OF NEVADA

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FREDERICK LAVELLE PAINE,

Case No. 2:00-cv-01082-MMD-VCF

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Petitioner,

ORDER

v.

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RENEE BAKER, et al.,

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Respondents.

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On January 17, 2007, this Court entered an order staying this action to allow petitioner Paine to exhaust his state remedies for all his claims. (Dkt. no. 112.) On May 14, 2014, Paine filed a motion to lift the stay and reopen these proceedings, indicating that his state court proceedings have been concluded. (Dkt. no. 147.) With that motion, he filed a second amended petition for writ of habeas corpus. (Dkt. no. 145.) Respondents have filed a response to the motion indicating that they do not oppose it. (Dkt. no. 148.)

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Good cause appearing, the Court shall reopen proceedings in this matter. In addition, the Court shall establish a schedule for further litigation of this action.

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It is therefore ordered that petitioner's motion to reopen proceedings (dkt. no. 147) is granted. The Clerk shall administratively reopen this action. The stay of this action is lifted.

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It is further ordered:

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1. **Response to Petition.** Respondents shall have until and including July 31, 2014, to file and serve an answer or other response to petitioner's second amended petition for writ of habeas corpus (dkt. no. 145).

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1           2. **Reply and Response to Reply.** Petitioner shall have forty-five (45) days  
2 following service of an answer by respondents to file and serve a reply. Respondents  
3 shall thereafter have thirty (30) days following service of a reply to file and serve a  
4 response to the reply.

5           3. **Briefing of Motion to Dismiss.** If respondents file a motion to dismiss,  
6 petitioner shall have thirty (30) days following service of the motion to file and serve an  
7 opposition to the motion. Respondents shall thereafter have thirty (30) days following  
8 service of the opposition to the motion to file and serve a reply.

9           4. **Evidentiary Hearing.** If petitioner wishes to request an evidentiary hearing,  
10 petitioner shall file and serve a motion for an evidentiary hearing concurrently with, but  
11 separate from, his reply to respondents' answer or his opposition to respondents'  
12 motion to dismiss. The motion for an evidentiary hearing must specifically address why  
13 an evidentiary hearing is required, and must meet the applicable requirements of 28  
14 U.S.C. § 2254(e). The motion must identify whether an evidentiary hearing was held in  
15 state court, and, if so, state where the transcript is located in the record. If petitioner  
16 files a motion for an evidentiary hearing, respondents shall file and serve a response to  
17 that motion concurrently with, but separate from, their response to petitioner's reply or  
18 their reply in support of a motion to dismiss. Petitioner shall thereafter have twenty (20)  
19 days, following service of respondents' response to the motion for an evidentiary  
20 hearing, to file and serve a reply in support of that motion.

21           DATED THIS 2<sup>nd</sup> day of June 2014.

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25           MIRANDA M. DU  
26           UNITED STATES DISTRICT JUDGE  
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