UNITED STATES DISTRICT COURT 1 2 **DISTRICT OF NEVADA** 3 WILLIAM WITTER, 4 Petitioner, 2:01-CV-1034-GMN-LRL 5 vs. 6 **ORDER** E.K. McDANIEL, et al., 7 Respondents. 8 9 10 On November 30, 2006, this court entered an order staying this federal habeas proceeding in order to provide the petitioner, William Witter, an opportunity to exhaust state court remedies. 11 12 Docket #139. On March 16, 2011, petitioner filed a motion to lift the stay and reopen these 13 proceedings. Docket #160. On April 4, 2011, respondents filed their notice of non-opposition to 14 petitioner's motion. Docket #162. 15 Good cause appearing, the court shall reopen proceedings in this matter. In addition, 16 petitioner will be allowed the opportunity to file an amended petition. However, petitioner is 17 cautioned that, as provided in the order granting the stay (docket #139), an amended petition shall 18 contain only claims for which he has exhausted state court remedies. 19 IT IS THEREFORE ORDERED that petitioner's "Motion to Vacate Stay and Reopen Habeas Corpus Proceeding" (Docket #160) is **GRANTED**. The Clerk shall administratively 20 21 REOPEN this action. The stay of this action is lifted. 22 IT IS FURTHER ORDERED that further proceedings in this matter are scheduled as 23 follows: 24 1. Amended petition. Petitioner shall have forty-five (45) days from the date this 25 order is entered within which to file an amended petition for habeas corpus relief. The amended 26 petition shall contain only exhausted claims.

2. **Response to Petition.** Respondents shall have sixty (60) days from the date the 2 amended petition is filed to file and serve an answer or other response to petitioner's amended 3 petition for writ of habeas corpus.

Reply and Response to Reply. Petitioner shall have forty-five (45) days following 4 3. 5 service of an answer by respondents to file and serve a reply. Respondents shall thereafter have 6 thirty (30) days following service of a reply to file and serve a response to the reply.

7 4. **Briefing of Motion to Dismiss.** If respondents file a motion to dismiss, petitioner 8 shall have thirty (30) days following service of the motion to file and serve an opposition to the 9 motion. Respondents shall thereafter have thirty (30) days following service of the opposition to 10 the motion to file and serve a reply.

11 5. Evidentiary Hearing. If petitioner wishes to request an evidentiary hearing, 12 petitioner shall file and serve a motion for an evidentiary hearing concurrently with, but separate from, his reply to respondents' answer or his opposition to respondents' motion to dismiss. The 13 14 motion for an evidentiary hearing must specifically address why an evidentiary hearing is required, 15 and must meet the applicable requirements of 28 U.S.C. § 2254(e). The motion must identify 16 whether an evidentiary hearing was held in state court, and, if so, state where the transcript is located 17 in the record. If petitioner files a motion for an evidentiary hearing, respondents shall file and serve 18 a response to that motion concurrently with, but separate from, their response to petitioner's reply or 19 their reply in support of a motion to dismiss. Petitioner shall thereafter have twenty (20) days, 20 following service of respondents' response to the motion for an evidentiary hearing, to file and serve 21 a reply in support of that motion.

DATED this 7th day of April, 2011.

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Gloria M. Navarro United States District Judge

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