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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DALE EDWARD FLANAGAN,)
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 Petitioner,)
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 vs.)
)
 TIMOTHY FILSON, *et al.*,)
)
 Respondents.)
)
 _____/

2:09-cv-00085-KJD-GWF

ORDER

This capital habeas corpus action was stayed on August 23, 2012, pending the petitioner’s exhaustion of claims in state court. ECF No. 100. On June 27, 2017, the petitioner, Dale Edward Flanagan, filed a motion to lift the stay. ECF No. 115. In that motion, Flanagan states that the state-court proceedings have concluded. The court will grant Flanagan's motion to lift the stay, and will set a schedule for further litigation of this action.

IT IS THEREFORE ORDERED that petitioner's Motion to Lift the Stay of Proceedings (ECF No. 115) is GRANTED. The stay of this action is lifted.

IT IS FURTHER ORDERED that the following schedule shall govern the further litigation of this action:

- 1. Amended Petition. If necessary, petitioner shall file and serve a second amended petition for writ of habeas corpus within 60 days after entry of this order. The second amended petition shall specifically state whether each ground for relief has been exhausted in state court; for

1 each claim that has been exhausted in state court, the second amended petition shall state how, when,
2 and where that occurred. If petitioner determines that a second amended petition need not be filed,
3 then, within 60 days after entry of this order, petitioner shall file and serve a statement to that effect.

4 2. Response to Petition. Respondents shall have 60 days following service of the
5 second amended petition to file and serve an answer or other response to the second amended
6 petition. If petitioner does not file a second amended petition, respondents shall have 60 days
7 following the due-date for the second amended petition to file and serve an answer or other response
8 to petitioner's first amended petition.

9 3. Reply and Response to Reply. Petitioner shall have 45 days following service of an
10 answer to file and serve a reply. Respondents shall thereafter have 30 days following service of a
11 reply to file and serve a response to the reply.

12 4. Briefing of Motion to Dismiss. If respondents file a motion to dismiss, petitioner
13 shall have 60 days following service of the motion to file and serve a response to the motion.
14 Respondents shall thereafter have 30 days following service of the response to file and serve a reply.

15 5. Discovery. If petitioner wishes to move for leave to conduct discovery, petitioner
16 shall file and serve such motion concurrently with, but separate from, the response to respondents'
17 motion to dismiss or the reply to respondents' answer. Any motion for leave to conduct discovery
18 filed by petitioner before that time may be considered premature, and may be denied, without
19 prejudice, on that basis. Respondents shall file and serve a response to any such motion concurrently
20 with, but separate from, their reply in support of their motion to dismiss or their response to
21 petitioner's reply. Thereafter, petitioner shall have 20 days to file and serve a reply in support of the
22 motion for leave to conduct discovery.

23 6. Evidentiary Hearing. If petitioner wishes to request an evidentiary hearing, petitioner
24 shall file and serve a motion for an evidentiary hearing concurrently with, but separate from, the
25 response to respondents' motion to dismiss or the reply to respondents' answer. Any motion for an
26 evidentiary hearing filed by petitioner before that time may be considered premature, and may be

1 denied, without prejudice, on that basis. The motion for an evidentiary hearing must specifically
2 address why an evidentiary hearing is required, and must meet the requirements of 28 U.S.C. §
3 2254(e). The motion must state whether an evidentiary hearing was held in state court, and, if so,
4 state where the transcript is located in the record. If petitioner files a motion for an evidentiary
5 hearing, respondents shall file and serve a response to that motion concurrently with, but separate
6 from, their reply in support of their motion to dismiss or their response to petitioner's reply.
7 Thereafter, petitioner shall have 20 days to file and serve a reply in support of the motion for an
8 evidentiary hearing.

9 DATED: June 27, 2017



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11 UNITED STATES DISTRICT JUDGE
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