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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CHARLES KEOHOKALOLE,)
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 Petitioner,)
)
 vs.)
)
 WARDEN WILLIAMS, et al,)
)
 Respondents.)
 _____)

2: 10-CV-0859-KJD-LRL

ORDER

This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which petitioner, a state prisoner, is proceeding *pro se*. Before the Court is respondents' motion for leave to file a late pleading (docket #12), indicating a calendaring error resulted in the missed response deadline. A motion to dismiss the petition was filed simultaneously with the motion for late filing. Petitioner has filed a motion to time bar the respondents (docket #15) which presents the equivalent of a motion for default judgment. Respondents have opposed that motion (docket #16).

The motion to file a late pleading shall be granted, as respondents have shown excusable neglect for the failure to comply with the Court's scheduling order. The motion to time bar respondents shall be denied, as relief cannot be granted under 28 U.S.C. § 2254 unless the Court

1 reaches the merits of the claims.

2 **IT IS THEREFORE ORDERED** that the Motion for Leave to File Late Pleading (docket
3 #12) is **GRANTED**.

4 **IT IS FURTHER ORDERED** that petitioner's Motion to Time Bar Respondents and Grant
5 Habeas Corpus (docket #15) is **DENIED**.

6 **IT IS FURTHER ORDERED** that petitioner shall file his response to the Motion to
7 Dismiss on or before January 28, 2011.

8 DATED: January 14, 2011.



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10 UNITED STATES DISTRICT JUDGE
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