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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RANDOLPH L. MOORE,
Petitioner,
v.
WILLIAM GITTERE, et al.,
Respondents.

Case No. 2:13-cv-0655-JCM-CWH

ORDER

This capital habeas corpus action has been stayed since November 21, 2013, while the petitioner, Randolph L. Moore, exhausted claims in state court. See Order entered November 21, 2013 (ECF No. 31). On January 10, 2019, Moore, represented by appointed counsel, filed a motion to lift the stay (ECF No. 48). In that motion, Moore states that his state-court proceedings have concluded. On January 23, 2019, the respondents filed a notice (ECF No. 50) stating that they do not oppose the motion to lift the stay. The Court will grant Moore’s motion to lift the stay and will set a schedule for further proceedings in this action.

The Court will also direct the clerk of the court to update the docket with respect to the identities of the respondent warden and respondent state attorney general.

IT IS THEREFORE ORDERED that Petitioner’s Motion to Vacate Stay and Reopen Capital Habeas Proceedings (ECF No. 48) is **GRANTED**. The stay of this action is lifted.

IT IS FURTHER ORDERED that the following schedule shall govern the further proceedings in this action:

1. Amended Petition. Petitioner shall have 60 days from the date of this order to file a second amended petition for writ of habeas corpus. The second amended petition shall specifically state whether each ground for relief has been exhausted in state court; for each claim

1 that has been exhausted in state court, the second amended petition shall state how, when, and
2 where that occurred.

3 2. Response to Petition. Respondents shall have 60 days following service of the
4 second amended petition to file and serve an answer or other response to the second amended
5 petition.

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

9 4. Briefing of Motion to Dismiss. If Respondents file a motion to dismiss, Petitioner
10 shall have 60 days following service of the motion to file and serve a response to the motion.
11 Respondents shall thereafter have 30 days following service of the response to file and serve a
12 reply.

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

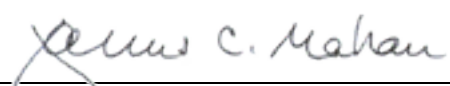
21 6. Evidentiary Hearing. If Petitioner wishes to request an evidentiary hearing,
22 Petitioner shall file and serve a motion for an evidentiary hearing concurrently with, but separate
23 from, the response to Respondents' motion to dismiss or the reply to Respondents' answer. Any
24 motion for an evidentiary hearing filed by Petitioner before that time may be considered
25 premature, and may be denied, without prejudice, on that basis. The motion for an evidentiary
26 hearing must specifically address why an evidentiary hearing is required and must meet the
27 requirements of 28 U.S.C. § 2254(e). The motion must state whether an evidentiary hearing was
28 held in state court, and, if so, state where the transcript is located in the record. If Petitioner files

1 a motion for an evidentiary hearing, Respondents shall file and serve a response to that motion
2 concurrently with, but separate from, their reply in support of their motion to dismiss or their
3 response to Petitioner's reply. Thereafter, Petitioner shall have 20 days to file and serve a reply
4 in support of the motion for an evidentiary hearing.

5 **IT IS FURTHER ORDERED** that, pursuant to Federal Rule of Civil Procedure 25(d),
6 William Gittere is substituted for Renee Baker as the respondent warden, and Aaron Ford is
7 substituted for Adam Paul Laxalt as the respondent state attorney general. The clerk of the court
8 shall update the docket for this case to reflect these changes.

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DATED February 5, 2019.



JAMES C. MAHAN,
UNITED STATES DISTRICT JUDGE