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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RENE F. FERNANDEZ,

Petitioner,

vs.

JAMES GREG COX, et al.,

Respondents.

Case No. 2:13-cv-02158-GMN-VCF

ORDER

The court of appeals remanded for the limited purpose of determining whether petitioner should receive relief from the judgment. The court denied the petition without reviewing relevant transcripts. Under Nasby v. McDaniel, 853 F.3d 1049 (9th Cir. 2017), the court needs to review the transcripts independently to determine whether the decisions of the state court are reasonable in light of the evidence presented. The court thus needs to reopen this action.

The parties need do nothing further in this action. The petition already is fully briefed, and respondents have filed the transcripts (ECF No. 68). The court will address the merits of the petition in the due course of its business.

Petitioner has filed a motion for a certificate of appealability (ECF No. 59). This motion is moot because the court is reopening the action.

Petitioner also has filed a request for judicial notice (ECF No. 65), in which he states that the state district court did not hold an evidentiary hearing on his post-conviction habeas corpus petition. Respondents' exhibits also show that no evidentiary hearing occurred. The court grants petitioner's request.

1 Petitioner also has filed a request for submission of motion (ECF No. 66). The motion that
2 petitioner wishes to submit is a motion for relief from the judgment. To the extent that petitioner is
3 requesting relief based upon the lack of transcripts when the court denied the petition, the court
4 grants petitioner's motion.

5 IT IS THEREFORE ORDERED that petitioner's request for submission of motion (ECF No.
6 66) is **GRANTED**.

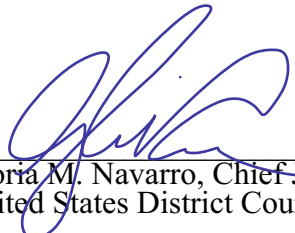
7 IT IS FURTHER ORDERED that the clerk of the court file the motion for relief from
8 judgment, currently in the docket at ECF No. 66-1.

9 IT IS FURTHER ORDERED that the motion for relief from judgment is **GRANTED** in
10 part. The clerk of the court shall reopen this action.

11 IT IS FURTHER ORDERED that petitioner's motion for certificate of appealability (ECF
12 No. 59) is **DENIED** as moot.

13 IT IS FURTHER ORDERED that petitioner's request for judicial notice (ECF No. 65) is
14 **GRANTED**.

15 DATED: November 13, 2017

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Gloria M. Navarro, Chief Judge
United States District Court