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3 **UNITED STATES DISTRICT COURT**4 **DISTRICT OF NEVADA**

5 MICHAEL DEAN ADKISSON,

Case No.: 2:14-cv-01934-APG-CWH

6 Petitioner

ORDER

7 v.

8 D.W. NEVEN, et al.,

9 Respondents

10 In November 2019, this court granted petitioner Michael Dean Adkisson's motion to stay
11 case (ECF No. 91). Adkisson's state-court proceedings have concluded, and the Federal Public
12 Defender (FPD), counsel for Adkisson, has filed a motion to reopen this federal habeas petition
13 (ECF No. 94). The FPD has also filed a motion to withdraw as counsel for petitioner (ECF No.
14 96). Counsel explains that he and Adkisson have a fundamental disagreement about how to
15 proceed in this case and that there has been an irrevocable breakdown of the attorney-client
16 relationship that has resulted in an actual conflict of interest. Respondents have indicated that
17 they do not oppose either motion (ECF No. 96). Good cause appearing, the motion to reopen the
18 case is granted.

19 With respect to the motion to withdraw, petitioner's counsel points to a "notice" that
20 Adkisson filed *pro se* (ECF No. 93). Adkisson's second-amended petition is fully briefed on the
21 merits (*see* ECF Nos. 28, 49, 60). In his purported notice, Adkisson states that he wants to file a
22 third-amended petition and expresses his displeasure with the FPD (*see* ECF No. 93). Indeed, the
23 FPD indicates that Adkisson has urged him to file another amended petition, but counsel has
explained his reasons for not further amending the petition (ECF No 96). The disagreement over

1 whether to further amend forms the basis for the breakdown of the attorney-client relationship. In
2 light of the conflict, I grant the motion to withdraw.

3 If Adkisson wishes to seek leave to file an amended petition, he must file a motion for
4 leave to amend pursuant to Local Rule 15-1. He must also attach to any such motion a proposed
5 amended petition. His “notice” is a fugitive pleading, and the court will not consider it.


6 I THEREFORE ORDER that petitioner’s motion to reopen case (ECF No. 94) is
7 **GRANTED.**

8 I FURTHER ORDER that counsel for petitioner’s motion to withdraw (ECF No. 96) is
9 **GRANTED.** The FPD is withdrawn as counsel of record for this case.

10 I FURTHER ORDER that, within **30 days** of the date of this order, petitioner file a
11 motion for leave to file an amended petition, if any. He must attach a proposed amended petition.

12 I FURTHER ORDER that if petitioner does not file a motion for leave to amend within
13 30 days, the second-amended petition will stand briefed and ready for a merits decision.

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15 Dated: July 20, 2021

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19 U.S. District Judge Andrew P. Gordon
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