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UNITED STATES DISTRICT COURT

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DISTRICT OF NEVADA

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9 JERRY CROSS,

10 Petitioner,

2:17-cv-00290-JCM-VCF

11 vs.

ORDER12 BRIAN WILLIAMS, SR., *et al.*,

13 Respondents.

14 _____/

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16 In this habeas corpus action, brought pursuant to 28 U.S.C. § 2254 by Jerry Cross, a Nevada
17 prisoner, the Court appointed counsel for Cross. *See* Order entered May 17, 2017 (ECF No. 7).

18 Counsel -- the Federal Public Defender for the District of Nevada -- appeared for Cross on
19 June 6, 2017 (ECF No. 9). The respondents appeared on May 18, 2017 (ECF No. 8).

20 Therefore, the Court will set a schedule for further proceedings in this action, as follows.

21 Filing Fee. Petitioner shall pay the filing fee for this action, or file an application to proceed
22 *in forma pauperis*, within 30 days after entry of this order.

23 Amended Petition. If necessary, petitioner shall file and serve an amended petition for writ
24 of habeas corpus within 90 days after entry of this order. The amended petition shall specifically
25 state whether each ground for relief has been exhausted in state court; for each claim that has been
26 exhausted in state court, the amended petition shall state how, when, and where that occurred. If

1 petitioner determines that an amended petition need not be filed, then, within 90 days after entry of
2 this order, petitioner shall file and serve a notice to that effect.

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

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

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

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

21 Evidentiary Hearing. If petitioner wishes to request an evidentiary hearing, petitioner shall
22 file and serve a motion for an evidentiary hearing concurrently with, but separate from, the response
23 to respondents' motion to dismiss or the reply to respondents' answer. Any motion for an
24 evidentiary hearing filed by petitioner before that time may be considered premature, and may be
25 denied, without prejudice, on that basis. The motion for an evidentiary hearing must specifically
26 address why an evidentiary hearing is required, and must meet the requirements of 28 U.S.C.

1 § 2254(e). The motion must state whether an evidentiary hearing was held in state court, and, if so,
2 state where the transcript is located in the record. If petitioner files a motion for an evidentiary
3 hearing, respondents shall file and serve a response to that motion concurrently with, but separate
4 from, their reply in support of their motion to dismiss or their response to petitioner's reply.
5 Thereafter, petitioner shall have 20 days to file and serve a reply in support of the motion for an
6 evidentiary hearing.

7 **IT IS SO ORDERED.**

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9 Dated June 7, 2017.

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12 UNITED STATES DISTRICT JUDGE

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