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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DESHAWN L. THOMAS,

Case No. 2:18-cv-00020-GMN-PAL

Petitioner,

ORDER

v.

BRIAN WILLIAMS, et al.,

Respondents.

This action is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by Nevada state prisoner Deshawn L. Thomas. On May 17, 2022, the parties filed a joint stipulation regarding Thomas’ proposed third-amended petition and a stay and abeyance (ECF No. 54). Thomas had recently filed a motion for leave to file a third-amended petition (ECF No. 52). In the stipulation, respondents provide written consent to the filing of the third-amended petition (ECF No. 54, p. 2). See Fed. R. Civ. P. 15(a)(2) (allowing amendment “with the opposing party’s written consent or the court’s leave”); see also *Ramirez v. Cty. of San Bernardino*, 806 F.3d 1002, 1007 (9th Cir. 2015).

The parties also stipulate that a stay pursuant to *Rhines v. Weber*, 544 U.S. 269 (2005), is appropriate so that Thomas can return to state court and litigate two new, unexhausted grounds. The new claims involve allegations that a key State’s witness falsely testified against Thomas and that the State suppressed impeachment evidence

1 with respect to that witness (ECF No. 52-1, pp. 32-35). Thomas asserts that the claims
2 are potentially meritorious and that he is not engaging in intentionally dilatory tactics.
3 Respondents indicate that while they reserve the right to litigate the merits of the new
4 claims in the future, they agree that a stay is warranted.
5

6 Finally, the parties ask the court to dismiss respondents' pending motion to
7 dismiss without prejudice to respondents' filing a new motion to dismiss at a later date
8 when the case is reopened. Good cause appearing, the stipulation is granted.

9 **IT IS THEREFORE ORDERED** that the joint stipulation (ECF No. 54) is
10 **GRANTED**.

11 **IT IS FURTHER ORDERED** that petitioner's motion for leave to file a third-
12 amended petition (ECF No. 52) is **DENIED** as moot.

13 **IT IS FURTHER ORDERED** that the Clerk of Court detach and file the third-
14 amended petition at ECF No. 52-1.
15

16 **IT IS FURTHER ORDERED** that respondents' motion to dismiss (ECF No. 35) is
17 **DISMISSED** without prejudice.

18 **IT IS FURTHER ORDERED** that respondents' motion for extension of time to file
19 a reply in support of the motion to dismiss (ECF No. 53) is **DENIED** as moot.
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21 **IT IS FURTHER ORDERED** that this action is **STAYED** pending final resolution
22 of petitioner's state postconviction habeas petition.
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IT IS FURTHER ORDERED that the grant of a stay is conditioned upon petitioner returning to federal court with a motion to reopen the case within forty-five (45) days of the issuance of the remittitur by the state appellate court, at the conclusion of the state court proceedings on the postconviction habeas petition.

IT IS FURTHER ORDERED that the Clerk **ADMINISTRATIVELY CLOSE** this action, until such time as the court grants a motion to reopen the matter.

DATED: 18 May 2022.



GLORIA M. NAVARRO
UNITED STATES DISTRICT JUDGE