



1 federal limitation period and timely asserting claims, without regard to any deadlines established  
2 or extensions granted herein. That is, by setting a deadline to amend the petition and/or by granting  
3 any extension thereof, the Court makes no finding or representation that the petition, any  
4 amendments thereto, and/or any claims contained therein are not subject to dismissal as  
5 untimely. See Sossa v. Diaz, 729 F.3d 1225, 1235 (9th Cir. 2013).

6 **IT IS FURTHER ORDERED** that Respondents shall file a response to the amended  
7 petition, including potentially by motion to dismiss, within 60 days of service of an amended  
8 petition and that Cabrera may file a reply thereto within 30 days of service of the answer. The  
9 response and reply time to any motion filed by either party, including a motion to dismiss, shall be  
10 governed instead by Local Rule LR 7-2(b).

11 **IT IS FURTHER ORDERED** that any procedural defenses raised by Respondents to the  
12 counseled amended petition shall be raised together in a single consolidated motion to dismiss. In  
13 other words, the Court does not wish to address any procedural defenses raised herein either in  
14 seriatum fashion in multiple successive motions to dismiss or embedded in the answer. Procedural  
15 defenses omitted from such motion to dismiss will be subject to potential waiver. Respondents  
16 shall not file a response in this case that consolidates their procedural defenses, if any, with their  
17 response on the merits, except pursuant to 28 U.S.C. § 2254(b)(2) as to any unexhausted claims  
18 clearly lacking merit. If Respondents do seek dismissal of unexhausted claims under § 2254(b)(2):  
19 (a) they shall do so within the single motion to dismiss not in the answer; and (b) they shall  
20 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set forth in  
21 Cassett v. Stewart, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no procedural defenses,  
22 including exhaustion, shall be included with the merits in an answer. All procedural defenses,  
23 including exhaustion, instead must be raised by motion to dismiss.

1           **IT IS FURTHER ORDERED** that, in any answer filed on the merits, Respondents shall  
2 specifically cite to and address the applicable state court written decision and state court record  
3 materials, if any, regarding each claim within the response as to that claim.

4           **IT IS FURTHER ORDERED** that any state court record and related exhibits filed herein  
5 by either Cabrera or Respondents shall be filed with a separate index of exhibits identifying the  
6 exhibits by number. The CM/ECF attachments that are filed further shall be identified by the  
7 number or numbers of the exhibits in the attachment. If the exhibits filed will span more than one  
8 ECF Number in the record, the first document under each successive ECF Number shall be either  
9 another copy of the index, a volume cover page, or some other document serving as a filler, so that  
10 each exhibit under the ECF Number thereafter will be listed under an attachment number (i.e.,  
11 Attachment 1, 2, etc.).

12           **IT IS FURTHER ORDERED** that courtesy copies of exhibits shall not be provided.

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14           **DATED:** September 23, 2024.



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16           **RICHARD F. BOULWARE, II**  
17           **UNITED STATES DISTRICT COURT**