UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEVEN LEE NEWBERG,

    Petitioner,

vs.

JACK PALMER, et al.,

    Respondents.

Case No. 3:07-cv-00189-RCJ-RAM

ORDER

Before the court are petitioner's motion to reopen (#41), respondents' opposition (#44), and petitioner's reply (#46). The court had stayed and administratively closed this action while petitioner returned to state court to exhaust his unexhausted claims. Petitioner needed to move to reopen this action forty-five (45) days after the state-court proceedings concluded. Order (#40). The motion to reopen (#41) was filed past that deadline. Petitioner's counsel explains that she had failed to monitor the proceedings in state court. Furthermore, after the state-court proceedings concluded, petitioner apparently called counsel's office and left a message while both counsel and her paralegal were out of the office. Somehow, they never received the message. Nothing in the court's experience indicates that this is a commonly occurring problem with petitioner's counsel, and the court will not punish petitioner for what appears to be an oversight by counsel. The court grants petitioner's motion.

The court has reviewed petitioner's second amended petition (#42) pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. Respondents will need to file a response.

1   IT IS THEREFORE ORDERED that petitioner's motion to reopen (#41) is **GRANTED**.

2 This action is **REINSTATED**.

3   IT IS FURTHER ORDERED that respondents shall have forty-five (45) days from the date

4 on which this order is entered to answer or otherwise respond to the second amended petition (#42).

5 If respondents file and serve an answer, then they shall comply with Rule 5 of the Rules Governing

6 Section 2254 Cases in the United States District Courts, and then petitioner shall have forty-five

7 (45) days from the date on which the answer is served to file a reply.

8   Dated: May 17, 2013.

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                                               ROBERT C. JONES
11   Chief United States District Judge

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