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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

OMAR TERRELL TAYLOR,

Petitioner,

vs.

E.K. MCDANIEL, *et al.*,

Respondents.

3:08-cv-00401-ECR-VPC

ORDER

In connection with respondents' pending motion (#26) to dismiss in this matter, the Court will direct a record supplement from respondents as to the date of mailing of the second state petition as reflected by the prison's legal mail log. The Court is cognizant that the prison mailbox rule does not apply in Nevada to determine a constructive date of filing, for purposes of state law, for a state post-conviction petition. That is not the Court's focus in directing supplementation of the record.

IT THEREFORE IS ORDERED that, within thirty (30) days of entry of this order, respondents shall file an appropriately-redacted copy of the pertinent portion of the prison legal mail log reflecting the date – in either June or July 2007 – upon which petitioner tendered the second state post-conviction petition filed on July 18, 2007, to prison authorities for mailing, together with a covering affidavit or sworn declaration by the records custodian.

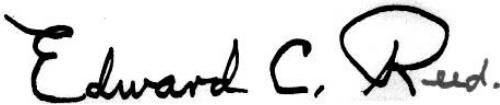
IT FURTHER IS ORDERED that petitioner shall have thirty (30) days of service within which to file any further evidentiary materials following upon the record supplement.

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The Court is endeavoring to conclude proceedings on the pending motion to dismiss as promptly as possible. Any requests for extensions of time based on scheduling conflicts with other cases pending in this Court should be sought in the later-filed case absent extraordinary circumstances.

DATED: October 12, 2010



EDWARD C. REED
United States District Judge