UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BISMARCK A. OBANDO,

Petitioner,

vs.

WILLIAM DONAT, *et al.,*

Respondents.

3:08-cv-00565-ECR-RAM

ORDER

This habeas matter under 28 U.S.C. § 2254 comes before the Court following initial review under Rule 4 of the Rules Governing Section 2254 Cases (the "Habeas Rules") of the amended petition (#15) filed by the Federal Public Defender. Following upon said review, a response will be directed.

IT THEREFORE IS ORDERED that, taking into account the complexity of the claims and issues presented, respondents shall have sixty (60) days from entry of this order within which to answer, or otherwise respond to, the amended petition, including by motion to dismiss. Any response filed shall comply with the remaining provisions below, which are tailored to this particular case based upon the Court's screening of the amended petition and which are entered pursuant to Rule 4 of the Rules Governing Section 2254 Cases.[1]

[1] The rule provides in pertinent part: "If the petition is not dismissed [on initial review], the judge must order the respondent to file an answer, motion, or other response within a fixed time, or to take other action [as] the judge may order."

IT FURTHER IS ORDERED that any procedural defenses raised by respondents in this case – including any defenses as to timeliness and relation back of claims, lack of exhaustion, procedural default, and/or lack of specificity – shall be raised together in a single motion to dismiss. Procedural defenses omitted from the motion to dismiss will be subject to potential waiver.[2] The respondents shall not file a response in this case that consolidates their procedural defenses, if any, with their response on the merits, except pursuant to 28 U.S.C. § 2254(b)(2) as to unexhausted claims clearly lacking merit.

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

IT FURTHER IS ORDERED that any additional exhibits filed by respondents shall be filed with a separate index of exhibits identifying the exhibits by number or letter. The CM/ECF attachments that are filed further shall be identified by the number or numbers (or letter or letters) of the exhibits in the attachment. Cf. ## 16-18. The purpose of this provision is so that the Court, the parties, and any reviewing court thereafter will be able to quickly determine from the face of the electronic docket sheet which exhibits are filed in which attachments.

IT FURTHER IS ORDERED that petitioner shall have thirty (30) days from service of the answer, motion to dismiss, or other response to file a reply or opposition.

DATED: April 14, 2010

Edward C. Reed.

EDWARD C. REED
United States District Judge

[2] *See,e.g. Morrison v. Mahoney,* 399 F.3d 1042, 1046 (9th Cir. 2005)("*Unless a court has ordered otherwise*, separate motions to dismiss may be filed asserting different affirmative defenses.")(emphasis added).