

1
2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA
5

6 CHARLES LEE RANDOLPH,
7 Petitioner,
8 v.

9 WILLIAM GITTERE, *et al.*,
10 Respondents.
11

Case No. 3:08-cv-00650-LRH-CLB

ORDER

12
13 In this capital habeas corpus action, on September 2, 2021, the Court ordered
14 the parties to provide supplemental briefing regarding a motion by the petitioner seeking
15 disclosure of certain materials by the respondents. See Petitioner's Motion (ECF No.
16 89); Order entered September 2, 2021 (ECF No. 92). On September 10, 2021, the
17 respondents filed a motion for reconsideration (ECF No. 93), requesting that the Court
18 alter the order in which the supplemental briefing is to be filed. Petitioner filed a
19 response to that motion on September 17, 2021 (ECF No. 95). Respondents filed a
20 reply on September 22, 2021 (ECF No. 96). On September 23, 2021, Petitioner filed a
21 motion (ECF No. 97) requesting leave to file a surreply; the proposed surreply is
22 attached to the motion.

23 The Court will grant Petitioner's motion to file the surreply and will consider the
24 surreply. The Court will also grant Respondents' motion for reconsideration and will set
25 forth, below, a reworked supplemental briefing schedule with respect to Petitioner's
26 motion for disclosure of materials by the respondents (ECF No. 89).

27 Petitioner will have 30 days from the date of this order to file a supplement to his
28 motion for disclosure of materials by the respondents (ECF No. 89), stating, with regard

1 to the materials listed in footnote 3 of his motion (ECF No. 89, pp. 6–9), which of those
2 materials Petitioner has, and which he does not have. It appears to the Court that it
3 would be most efficient for the parties and the Court to include in the supplement a
4 table, with a row for each item, stating whether or not Petitioner has the item. The table
5 should include space for Respondents to include a response as to each item, and space
6 for Petitioner to reply. This will allow the Court to see, at a glance, at least a summary of
7 the parties' positions with respect to each of the 107 items. The parties should
8 cooperate, so that at the end of the briefing, there will be one table, showing what
9 materials Petitioner has and does not have, what Respondents' response is, and what
10 Petitioner's reply is. Respondents will then have 60 days to respond. In their response,
11 Respondents must describe which of the materials requested by Randolph are
12 reasonably available, without undue burden, to be produced, and which are not. As for
13 the latter, Respondents must explain why. Petitioner will then have 20 days to reply.

14 **IT IS THEREFORE ORDERED** that Petitioner's Motion for Leave to File Surreply
15 (ECF No. 97) is **GRANTED**.

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

IT IS FURTHER ORDERED that Respondents' Motion for Reconsideration (ECF No. 93) is **GRANTED**. The schedule for further briefing of Petitioner's motion for disclosure of materials by the respondents (ECF No. 89) set forth in the Order entered September 2, 2021 (ECF No. 92) is vacated. The schedule for that supplemental briefing will be as follows:

- Petitioner will have 30 days from the date of this order to file a supplement to his motion for disclosure of materials by the respondents (ECF No. 89), as described above.
- Respondents will then have 60 days to file a response to Petitioner's supplement to their motion, as described above.
- Petitioner will then have 20 days to file a reply.

DATED THIS 30th day of September, 2021.

LARRY R. HICKS,
UNITED STATES DISTRICT JUDGE