

## 1 UNITED STATES DISTRICT COURT

## 2 DISTRICT OF NEVADA

3  
4 SIAOSI VANISI,

Case No. 3:10-cv-00448-CDS-CLB

5 Petitioner

ORDER

6 v.

[ECF No. 90]

7 WILLIAM GITTERE, *et al.*,

8 Respondents

9  
10 This capital habeas corpus action was stayed on April 25, 2012, pending exhaustion of  
11 claims in state court by the petitioner, Siaosi Vanisi. ECF No. 57. On February 10, 2023, Vanisi,  
12 represented by appointed counsel, filed a motion to lift the stay. ECF No. 90. Vanisi states that  
13 the state-court proceedings have concluded. On February 15, 2023, respondents filed a response  
14 (ECF No. 94), stating that they do not oppose Vanisi's motion to lift the stay. The court will  
15 grant the motion, will order the stay lifted, and will set a schedule for further proceedings.

16 IT IS THEREFORE ORDERED that petitioner's Motion to Vacate Stay and Reopen  
17 Capital Habeas Proceedings [ECF No. 90] is GRANTED. The stay of this action is lifted.

18 IT IS FURTHER ORDERED that the following schedule will govern the further  
19 proceedings in this action:

20 1. **Amended Petition.** Petitioner will have 60 days from the date of this order to file  
21 a second amended petition for writ of habeas corpus. The second amended petition must  
22 specifically state whether each ground for relief has been exhausted in state court; for each claim  
23 that has been exhausted in state court, the second amended petition must state how, when, and  
24 where that occurred. If petitioner determines that a second amended petition need not be filed,  
25 then, within the time for the filing of a second amended petition, petitioner must file a statement  
26 to that effect.

27

28

1           2.       **Response to Petition.** Respondents will have 90 days following the filing of the  
2 second amended petition to file an answer or other response to the second amended petition. If  
3 petitioner does not file a second amended petition, respondents will have 90 days following the  
4 due date for the second amended petition to file an answer or other response to the first  
5 amended petition.

6           3.       **Reply and Response to Reply.** Petitioner will have 60 days following the filing  
7 of an answer to file a reply. Respondents will thereafter have 45 days following the filing of a  
8 reply to file a response to the reply.

9           4.       **Briefing of Motion to Dismiss.** If respondents file a motion to dismiss,  
10 petitioner will have 60 days following the filing of the motion to file a response to the motion.  
11 Respondents will thereafter have 45 days following the filing of the response to file a reply.

12           5.       **Discovery.** If petitioner wishes to move for leave to conduct discovery, petitioner  
13 must file such motion concurrently with, but separate from, the response to respondents'  
14 motion to dismiss or the reply to respondents' answer. Any motion for leave to conduct  
15 discovery filed by petitioner before that time may be considered premature, and may be denied,  
16 without prejudice, on that basis. Respondents must file a response to any such motion  
17 concurrently with, but separate from, their reply in support of their motion to dismiss or their  
18 response to petitioner's reply. Thereafter, petitioner will have 20 days to file a reply in support of  
19 the motion for leave to conduct discovery.

20           6.       **Evidentiary Hearing.** If petitioner wishes to request an evidentiary hearing,  
21 petitioner must file a motion for an evidentiary hearing concurrently with, but separate from,  
22 the response to respondents' motion to dismiss or the reply to respondents' answer. Any motion  
23 for an evidentiary hearing filed by petitioner before that time may be considered premature, and  
24 may be denied, without prejudice, on that basis. The motion for an evidentiary hearing must  
25 specifically address why an evidentiary hearing is required and must meet the requirements of  
26 28 U.S.C. § 2254(e). The motion must state whether an evidentiary hearing was held in state  
27 court, and, if so, state where the transcript is located in the record. If petitioner files a motion for  
28 an evidentiary hearing, respondents must file a response to that motion concurrently with, but

1 separate from, their reply in support of their motion to dismiss or their response to petitioner's  
2 reply. Thereafter, petitioner will have 20 days to file a reply in support of the motion for an  
3 evidentiary hearing.

4 DATED: March 6, 2023

5  
6   
7 \_\_\_\_\_  
8 CRISTINA D. SILVA  
9 UNITED STATES DISTRICT JUDGE  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28