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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL ROBERT PERSON,)
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 Petitioner,)
)
 vs.)
)
 DWIGHT NEVEN, *et al.*,)
)
 Respondents.)
 _____)

3:10-cv-00480-LRH-WGC
ORDER

This action is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner who is represented by counsel.

Petitioner has filed a motion to expand the record. (ECF No. 47). Along with the motion to expand the record, petitioner has submitted Exhibits 1-17, which were originally submitted under Tab 24 of Appellant’s Appendix to the Opening Brief, filed with the Nevada Supreme Court on May 28, 2009. (ECF Nos. 47-1, 47-2). Petitioner has further submitted Findings of Fact, Conclusions of Law and Judgment which were filed in the Second Judicial District Court for the State of Nevada in the case of *McKinney v. State*, and which were included in his Supplemental Appendix filed with the Nevada Supreme Court. (*Id.*).

Petitioner asserts that because these documents were brought before the Nevada Supreme Court prior to disposition, but were not part of the 80 exhibits filed by the State in this action (ECF Nos. 12-16, 45), the motion to expand the record is brought under Rule 5, rather than Rule 7 of the

1 Rules Governing Section 2254 Cases in the United States District Courts. Respondents do not
2 oppose petitioner's motion to expand the record. (ECF No. 49). Good cause appearing, and
3 consistent with Rule 5 of the Rules Governing Section 2254 Cases, petitioner's motion to expand the
4 record is granted.

5 **IT IS THEREFORE ORDERED** that petitioner's motion to expand the record (ECF No.
6 47) is **GRANTED**.

7 **IT IS FURTHER ORDERED** that the documents submitted with petitioner's motion to
8 expand the record, at ECF Nos. 47-1 and 47-2, comprise part of the state court record and thus will
9 be considered by this Court in its ultimate ruling on the merits of this action.

10 Dated this 14th day of March, 2013.



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14 LARRY R. HICKS
15 UNITED STATES DISTRICT JUDGE
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