UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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ROBERT W. ELLIOTT, Petitioner, v. E.K. MCDANIEL, *et al.,* Respondents.	Case No. 3:11-cv-00041-MMD-VPC ORDER

On October 29, 2014, this Court dismissed without prejudice petitioner Robert W. Elliott's *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 because it was wholly unexhausted (ECF No. 23). Judgment was entered (ECF No. 24). Elliott appealed, and on October 3, 2016, the Ninth Circuit Court of Appeals vacated and remanded in light of its recent decision in *Mena v. Long*, 813 F.3d 907, 912 (9th Cir. 2016) (ECF No. 35). The court of appeals directed that this Court determine whether Elliott was entitled to a stay of his federal habeas petition. Accordingly, this Court issued an order directing petitioner to demonstrate that he was entitled to a stay of these federal proceedings. (ECF No. 38.)

Petitioner filed a counseled motion for reconsideration of that order, indicating that the Federal Public Defender now represents petitioner. (ECF No. 39.) In light of the fact that petitioner now has counsel, he seeks, through such counsel, leave to file an amended petition. He argues that allowing the filing of a counseled, amended petition will promote judicial economy and streamline this habeas litigation moving forward. Respondents have not responded to petitioner's motion in any way.

Good cause appearing, it is ordered that petitioner's motion for reconsideration (ECF No. 39) is granted.

It is further ordered that this court's order dated December 13, 2016 (ECF No. 38) is vacated.

It is further ordered that petitioner's motion for extension of time to respond to the show-cause order (ECF No. 41) is denied as moot.

It is further ordered that counsel for petitioner must meet with petitioner as soon as reasonably possible, if counsel has not already done so, to: (a) review the procedures applicable in cases under 28 U.S.C. § 2254; (b) discuss and explore with petitioner, as fully as possible, the potential grounds for habeas corpus relief in petitioner's case; and (c) advise petitioner that all possible grounds for habeas corpus relief must be raised at this time in this action and that the failure to do so will likely result in any omitted grounds being barred from future review.

It is further ordered that petitioner will have ninety (90) days from the date of this order to file and serve on respondents an amended petition for writ of habeas corpus, which must include all known grounds for relief (both exhausted and unexhausted).

It is further ordered that respondents will have forty-five (45) days after service of an amended petition within which to answer, or otherwise respond to, the amended petition. If petitioner does not file an amended petition, respondents will have forty-five (45) days from the date on which the amended petition is due within which to answer, or otherwise respond to, petitioner's original petition.

It is further ordered that, if and when respondents file an answer or other responsive pleading, petitioner will have thirty (30) days after service of the answer or responsive pleading to file and serve his response.

It is further ordered that any state court record exhibits filed by the parties herein must be filed with an index of exhibits identifying the exhibits by number or letter. The CM/ECF attachments that are filed must further be identified by the number or numbers (or letter or letters) of the exhibits in the attachment.

It is further ordered that the parties must send courtesy copies of all exhibits to the Reno Division of this court. Courtesy copies shall be mailed to the Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, and directed to the attention of "Staff Attorney" on the outside of the mailing address label. Additionally, in the future, all parties must provide courtesy copies of any additional exhibits submitted to the Court in this case, in the manner described above.

DATED THIS 18th day of August 2017.

MIRANDA M. DU
UNITED STATES DISTRICT JUDGE