

1
2
3
4
5
6
7
8
9
10
11
12
13
14UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

GILBERT DEMETRIUS AGUILAR,

Case No. 3:12-cv-00397-MMD-WGC

Petitioner,

ORDER

v.

RENEE BAKER, *et al.*,

Respondents.

This habeas corpus action was stayed from May 19, 2015 (ECF No. 60) to June 7, 2016, while the petitioner, Gilbert Demetrius Aguilar, exhausted certain of his claims in state court. In the order lifting the stay (ECF No. 65), the Court set a schedule for further proceedings in the case. The first provision of the scheduling order granted Aguilar thirty (30) days — to July 7, 2016 — to either file a third amended petition for writ of habeas corpus or a notice stating that he will not file a third amended petition. See Order entered June 7, 2016 (ECF No. 65) at 1-2. Aguilar did not file either by July 7, 2016.

On July 12, 2016, Aguilar filed a Motion for Leave to File Notice of No Third Amended Petition (ECF No. 66). In that motion, Aguilar states that he will not file a third amended petition.

Aguilar recognizes that the notice that he will not file a third amended petition was filed five days after the deadline for such notice set by the Court. He states that this was an oversight. The Court finds that Aguilar's late filing of the notice was a result of

25
26
27
28

1 excusable neglect. See LR 26-4. The Court will grant Aguilar's motion for leave to file
2 his notice. And, in view of the delay, the Court will, *sua sponte*, extend the time for
3 respondents to respond to Aguilar's second amended petition.

4 It is therefore ordered that petitioner's Motion for Leave to File Notice of No Third
5 Amended Petition (ECF No. 66) is granted. Petitioner's notice has been filed (ECF No.
6 66); no further action by the Clerk of the Court is necessary in that regard.

7 It is further ordered that respondents will have until and including September 21,
8 2016, to file an answer or other response to petitioner's second amended petition for
9 writ of habeas corpus (ECF No. 62). In all other respects, the schedule for further
10 proceedings set forth in the order entered June 7, 2016 (ECF No. 65) will remain in
11 effect.

12
13 DATED THIS 13TH day of July 2016.



14
15
16 MIRANDA M. DU
UNITED STATES DISTRICT JUDGE

17
18
19
20
21
22
23
24
25
26
27
28