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UNITED STATES DISTRICT COURT

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DISTRICT OF NEVADA

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9 MICHAEL DWAYNE BYARS,

10 Petitioner,

3:15-cv-00388-RCJ-VPC

11 vs.

ORDER12 BRYAN WILLIAMS, SR., *et al.*,

13 Respondents.

14 _____/

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16 This action is a *pro se* petition for writ of habeas corpus by Nevada prisoner Michael
17 Dwayne Byars. The action was stayed, on March 4, 2016, pending Byars completion of state court
18 litigation. *See* Order entered March 4, 2016 (ECF No. 18).

19 On December 8, 2016, Byars filed a document entitled “Motion to Request ... an Extension
20 of Time to File Federal Petition” (ECF No. 19). In that motion, Byars appeared to suggest that his
21 state court litigation has been completed. On December 20, 2016, the court denied that motion, but
22 directed respondents to file a status report with respect to the case (ECF No. 21).

23 On January 18, 2017, respondents filed a status report (ECF No. 22), indicating that Byars
24 has completed his state court litigation, and that it is appropriate to lift the stay in this case at this
25 time. Therefore, the court will order the stay of this action lifted, and will set a schedule for further
26 litigation of this action.

1 It is therefore ordered that **the stay of this action is vacated**. The Clerk of the Court shall
2 reopen this case.

3 It is further ordered that the following schedule shall govern the further litigation of this
4 action:

5 1. Further Response to Petition. Respondents shall have **60 days** following this order to file
6 and serve an answer or other further response to the habeas corpus petition in this case. If petitioner
7 does not file a third amended petition, respondents shall have 60 days following the due-date for the
8 third amended petition to file and serve an answer or other response to petitioner's second amended
9 petition.

10 2. Reply and Response to Reply. Petitioner shall have 60 days following service of an
11 answer to file and serve a reply. Respondents shall thereafter have 30 days following service of a
12 reply to file and serve a response to the reply.

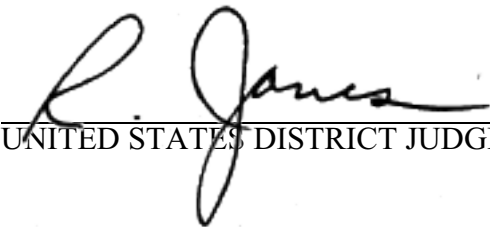
13 3. Briefing of Motion to Dismiss. If respondents file a motion to dismiss, petitioner shall
14 have 60 days following service of the motion to file and serve a response to the motion.
15 Respondents shall thereafter have 30 days following service of the response to file and serve a reply.

16 4. Discovery. If petitioner wishes to move for leave to conduct discovery, petitioner shall
17 file and serve such motion concurrently with, but separate from, the response to respondents' motion
18 to dismiss or the reply to respondents' answer. Any motion for leave to conduct discovery filed by
19 petitioner before that time may be considered premature, and may be denied, without prejudice, on
20 that basis. Respondents shall file and serve a response to any such motion concurrently with, but
21 separate from, their reply in support of their motion to dismiss or their response to petitioner's reply.
22 Thereafter, petitioner shall have 30 days to file and serve a reply in support of the motion for leave
23 to conduct discovery.

24 5. Evidentiary Hearing. If petitioner wishes to request an evidentiary hearing, petitioner
25 shall file and serve a motion for an evidentiary hearing concurrently with, but separate from, the
26 response to respondents' motion to dismiss or the reply to respondents' answer. Any motion for an

1 evidentiary hearing filed by petitioner before that time may be considered premature, and may be
2 denied, without prejudice, on that basis. If petitioner files a motion for an evidentiary hearing,
3 respondents shall file and serve a response to that motion concurrently with, but separate from, their
4 reply in support of their motion to dismiss or their response to petitioner's reply. Thereafter,
5 petitioner shall have 30 days to file and serve a reply in support of the motion for an evidentiary
6 hearing.

7 Dated: This 16th day of February, 2017.
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12 UNITED STATES DISTRICT JUDGE
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