

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

ROBERT WILLIAM LAWVER,

Petitioner,

v.

WARDEN, *et al.*,

Respondents.

Case No. 3:16-cv-00379-MMD-VPC

ORDER

This habeas matter under 28 U.S.C. § 2254 currently is pending before the Court on a show-cause inquiry as to whether Petitioner Robert William Lawver’s federal habeas petition is subject to dismissal as untimely.

Following review, the Court declines to further consider the timeliness issue on a *sua sponte* inquiry, without prejudice to Respondents’ ability to pursue the issue in their response. The Court finds that the most efficient manner to address the procedural and merits issues in this case would be following an answer by Respondents presenting all procedural and merits defenses within a single, consolidated response. While the Court often orders that procedural defenses be presented separately from a response on the merits, the Court instead is directing Respondents to present all defenses in a single response.

It is therefore ordered that, within sixty (60) days of entry of this Order, Respondents will file a response to the petition. The response will comply with the remaining provisions below, which are tailored to this particular case based upon the Court’s screening of the matter and which are entered pursuant to Habeas Rule 4. The Court is seeking to resolve

1 this matter as promptly as possible. Any requests for extension based upon scheduling
2 conflicts between this case and other cases in this district therefore ordinarily should be
3 sought in the later-filed case.

4 It is further ordered that Respondents will file an answer that consolidates any
5 procedural defenses raised together with their response on the merits, in a single response
6 presenting all defenses. Any applicable defenses not included in the answer potentially
7 may be waived. Respondents must specifically cite to and address the applicable state
8 court written decision and state court record materials, if any, regarding each claim within
9 the response as to that claim.¹

10 It is further ordered that Petitioner will have sixty (60) days from service of the
11 answer to dispatch a reply to the Clerk of Court for filing.

12 The Clerk further is requested and directed to correct: (1) the docket entry in ECF
13 No. 7 to reflect that it is a limited response to the petition, or similar designation selected
14 by the Clerk, rather than an answer; (2) the docket entry in ECF No. 9 to reflect that it is a
15 response by Petitioner to the Court's prior order (ECF No. 3) rather than a traverse to an
16 answer; and (3) the docket entry in ECF No. 13 to reflect that it is a reply to the limited
17 response in ECF No. 7 rather than a traverse to an answer.

18 DATED THIS 27th day of August 2018.

19 

20 _____
21 MIRANDA M. DU
22 UNITED STATES DISTRICT JUDGE

23
24
25 _____
26 ¹Respondents previously have filed certain state court record exhibits herein. Any
27 additional state court record exhibits filed with the response will comply with the prior order
28 with regard to the format of the filing and delivery of the hard copies. (See ECF No. 3 at
4-5.)

The petition is not on the Court's required petition form. However, given the age of
the case, the Court exercises its discretion to overlook the failure to comply with the local
rules in this regard.