

1

2

3

4

5

6

**UNITED STATES DISTRICT COURT**

7

**DISTRICT OF NEVADA**

8

9 MARCO GUZMAN,

10       Petitioner,

3:17-cv-00515-HDM-VPC

11 vs.

**ORDER**12 NEVADA ATTORNEY GENERAL, *et al.*,

13       Respondents.

14 \_\_\_\_\_/

15

16       In this habeas corpus action, brought pursuant to 28 U.S.C. § 2254 by Marco Guzman, a  
17 Nevada prisoner, the Court appointed counsel for Guzman. *See* Order entered August 31, 2017  
18 (ECF No. 3). Counsel -- the Federal Public Defender for the District of Nevada -- appeared for  
19 Guzman on September 29, 2017 (ECF No. 7). The respondents have also appeared (ECF No. 6).

20       Therefore, the Court will set a schedule for further proceedings in this action, as follows.

21       Payment of Filing Fee. Petitioner shall pay the \$5 filing fee for this action within 20 days  
22 from the entry of this order.

23       Amended Petition. If necessary, petitioner shall file an amended petition for writ of habeas  
24 corpus within 90 days after entry of this order. The amended petition shall specifically state whether  
25 each ground for relief has been exhausted in state court; for each claim that has been exhausted in  
26 state court, the amended petition shall state how, when, and where that occurred. If petitioner

1 determines that an amended petition need not be filed, then, within 90 days after entry of this order,  
2 petitioner shall file a notice to that effect.

3 Response to Petition. Respondents shall have 60 days following service of the amended  
4 petition to file an answer or other response to the amended petition. If petitioner does not file an  
5 amended petition, respondents shall have 60 days following the due-date for the amended petition to  
6 file an answer or other response to petitioner's petition.

7 Reply. Petitioner shall have 45 days following service of an answer to file a reply.  
8 Respondents shall thereafter have 30 days following service of a reply to file a response to the reply.

9 Briefing of Motion to Dismiss. If respondents file a motion to dismiss, petitioner shall have  
10 60 days following service of the motion to file a response to the motion. Respondents shall  
11 thereafter have 30 days following service of the response to file a reply.

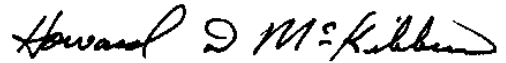
12 Discovery. If petitioner wishes to move for leave to conduct discovery, petitioner shall file  
13 such motion concurrently with, but separately from, the response to respondents' motion to dismiss  
14 or the reply to respondents' answer. Any motion for leave to conduct discovery filed by petitioner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

19 Evidentiary Hearing. If petitioner wishes to request an evidentiary hearing, petitioner shall  
20 file a motion for an evidentiary hearing concurrently with, but separately from, the response to  
21 respondents' motion to dismiss or the reply to respondents' answer. Any motion for an evidentiary  
22 hearing filed by petitioner before that time may be considered premature, and may be denied, without  
23 prejudice, on that basis. The motion for an evidentiary hearing must specifically address why an  
24 evidentiary hearing is required, and must meet the requirements of 28 U.S.C. § 2254(e). The motion  
25 must state whether an evidentiary hearing was held in state court, and, if so, state where the  
26 transcript is located in the record. If petitioner files a motion for an evidentiary hearing, respondents

1 shall file a response to that motion concurrently with, but separately from, their reply in support of  
2 their motion to dismiss or their response to petitioner's reply. Thereafter, petitioner shall have 20  
3 days to file a reply in support of the motion for an evidentiary hearing.

4 **IT IS SO ORDERED.**

5 Dated this 2<sup>nd</sup> day of October, 2017.

6 

7 UNITED STATES DISTRICT JUDGE

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26