

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

\* \* \*

JASON S. BROWN,

Petitioner,

v.

WARDEN BAKER, et al.,

Respondents.

Case No. 3:17-cv-00687-MMD-WGC

ORDER

Before the Court is Petitioner Jason S. Brown's Motion to File a Corrected Response in Opposition to Motion to Dismiss ("Motion") (ECF No. 36).

Respondents filed a Motion to Dismiss (ECF No. 20) the first amended petition on January 15, 2019. The Court granted Petitioner four extensions of time to respond. (ECF Nos. 24, 26, 28, 30.) On May 3, 2019, Petitioner filed a 74-page Response (ECF No. 31)<sup>1</sup> along with three exhibits (ECF No. 32). Respondents replied (ECF No. 35) on May 10, 2019, and the motion to dismiss was fully briefed.

Two months and 14 days later, on July 24, 2019, Petitioner filed the current motion requesting leave to file a corrected response and five supplemental exhibits (ECF No. 38). The motion attaches a 77-page proposed corrected response. He also filed a Motion to Seal (ECF No. 39) two of the five new exhibits (ECF No. 40) and a Motion for Evidentiary Hearing (ECF No. 37). Petitioner states that he seeks to "correct the record and allegations in is response based on these exhibits." (ECF No. 36 at 3.) He does not oppose allowing Respondents to file a surreply if desired.

Counsel provides no explanation, much less good cause, for the failure to procure and include the supplemental exhibits and arguments in the original response. See LR 7-

---

<sup>1</sup>Petitioner sought leave of the Court to exceed the standard page limit (ECF No. 33), and the Court granted the request (ECF No. 34).

1 2(g) (““A party may not file supplemental pleadings, briefs, authorities, or evidence without  
2 leave of court granted for good cause.”) (emphasis added). This is particularly troubling  
3 given that the first amended petition alleges three claims for ineffective assistance of  
4 counsel by Petitioner’s trial counsel and post-conviction counsel. The Court reminds  
5 counsel, pursuant to the Local Rules:

6 An attorney admitted to practice under any of these rules must adhere to  
7 the standards of conduct prescribed by the Model Rules of Professional  
8 Conduct as adopted and amended from time to time by the Supreme Court  
9 of Nevada, except as these standards may be modified by this court. An  
10 attorney who violates these standards of conduct, or who fails to comply  
with this court’s rules or orders, may be disbarred, suspended from practice  
before this court for a definite time, reprimanded, or subjected to other  
discipline as the court deems proper.

11 LR IA 11-7(a). Nevertheless, in the interest of justice and to ensure a complete record,  
12 the Court will grant the motion.

13 It is ordered that Petitioner’s Motion to File Corrected Response (ECF No. 36) is  
14 granted.

15 It is further ordered that Respondents will have until August 9, 2019, to file any  
16 surreply in support of the motion to dismiss and respond to Petitioner’s Motion to Seal  
17 (ECF No. 39) and Motion for Evidentiary Hearing (ECF No. 37).

18 DATED this 26<sup>th</sup> day of July 2019.



19  
20  
21 MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE  
22  
23  
24  
25  
26  
27  
28