



1 investigation is complete.

2         Petitioner thus seeks to employ a "two-step" procedure whereby  
3 he: (a) files an initial counseled amended petition preserving all  
4 then-known claims free of possible relation-back issues; and (b)  
5 thereafter potentially files a second amended petition after  
6 petitioner's newly appointed federal habeas counsel has had a full  
7 opportunity to independently investigate all potential claims. The  
8 court expressly has authorized such a "two-step" procedure in prior  
9 cases, and it does so here. *See, e.g., McMahon v. Neven*, No.  
10 2:14-cv-00076-APG-CWH, ECF No. 29 (D. Nev., May 29, 2014) (approving  
11 and explaining the court's rationale in allowing a bifurcated  
12 amendment procedure in habeas cases where the limitation period  
13 potentially may expire before federal habeas counsel would be able to  
14 conduct a complete investigation).

15         IT IS THEREFORE ORDERED that petitioner's motion (ECF No. 19) for  
16 leave to file a second amended petition is GRANTED.

17         IT IS FURTHER ORDERED that petitioner shall have up to and  
18 including July 9, 2018, within which to file a second amended petition  
19 and/or seek other appropriate relief. Neither the foregoing deadline  
20 nor any extension thereof signifies or will signify any implied  
21 finding as to the expiration of the federal limitation period and/or  
22 of a basis for tolling during the time period established. Petitioner  
23 at all times remains responsible for calculating the running of the  
24 federal limitation period and timely asserting claims, without regard  
25 to any deadlines established or extensions granted herein. That is,  
26 by setting a deadline to amend the petition and/or by granting any  
27 extension thereof, the court makes no finding or representation that  
28 the petition, any amendments thereto, and/or any claims contained

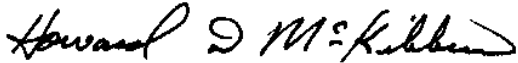
1 therein are not subject to dismissal as untimely. *See Sossa v. Diaz*,  
2 729 F.3d 1225, 1235 (9th Cir. 2013).

3 IT IS FURTHER ORDERED that: (a) respondents shall not be required  
4 to respond to the first amended petition at this time, but that (b)  
5 respondents shall file a response to the petition, as then amended,  
6 either within sixty (60) days of service of a second amended petition,  
7 if filed, or instead within sixty (60) days of the final expiration  
8 of the time to do so if petitioner does not file a second amended  
9 petition; and (c) petitioner may file a reply within thirty (30) days  
10 of service. The response and reply time to any motion filed by either  
11 party, including a motion filed in lieu of a pleading, shall be  
12 governed instead by the local rules.

13 IT IS FURTHER ORDERED that petitioner's motion for leave to file  
14 Exhibits 52 and 53 under seal (ECF No. 18) is GRANTED. The court  
15 finds, in accordance with the requirements of *Kamakana v. City and*  
16 *County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006), that a compelling  
17 need to protect the privacy of petitioner with regard to the sealed  
18 exhibits, which comprise his medical and psychological records,  
19 outweighs the public interest in open access to court records.

20 IT IS SO ORDERED.

21 DATED: This 19<sup>th</sup> day of March, 2018.

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24 HOWARD D. MCKIBBEN  
25 UNITED STATES DISTRICT JUDGE  
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