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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BRIAN SHERVEN,	Case No. 3:17-cv-00741-LRH-VPC
v.	Petitioner, ORDER
ISIDRO BACA, et al.,	Respondents.

Petitioner Brian Sherven has submitted a petition for a writ of habeas corpus and has now paid the filing fee (see ECF Nos. 1-1, 5). The court has reviewed the petition, and it shall be docketed and served on respondents.

IT IS THEREFORE ORDERED that the Clerk **shall file and ELECTRONICALLY SERVE** the petition (ECF No. 1-1) on the respondents.

IT IS FURTHER ORDERED that the Clerk shall add Adam Paul Laxalt, Nevada Attorney General, as counsel for respondents.

IT IS FURTHER ORDERED that respondents shall file a response to the petition, including potentially by motion to dismiss, within **ninety (90) days** of service of the petition, with any requests for relief by petitioner by motion otherwise being subject to the normal briefing schedule under the local rules. Any response filed shall comply with the remaining provisions below.

IT IS FURTHER ORDERED that any procedural defenses raised by respondents in this case shall be raised together in a single consolidated motion to dismiss. In other words, the court does not wish to address any procedural defenses raised herein either

1 *in seriatum* fashion in multiple successive motions to dismiss or embedded in the
2 answer. Procedural defenses omitted from such motion to dismiss will be subject to
3 potential waiver. Respondents shall not file a response in this case that consolidates
4 their procedural defenses, if any, with their response on the merits, except pursuant to
5 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If
6 respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they shall
7 do so within the single motion to dismiss not in the answer; and (b) they shall
8 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set
9 forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no
10 procedural defenses, including exhaustion, shall be included with the merits in an
11 answer. All procedural defenses, including exhaustion, instead must be raised by
12 motion to dismiss.

13 **IT IS FURTHER ORDERED** that, in any answer filed on the merits, respondents
14 shall specifically cite to and address the applicable state court written decision and state
15 court record materials, if any, regarding each claim within the response as to that claim.

16 **IT IS FURTHER ORDERED** that petitioner shall have **forty-five (45) days** from
17 service of the answer, motion to dismiss, or other response to file a reply or opposition,
18 with any other requests for relief by respondents by motion otherwise being subject to
19 the normal briefing schedule under the local rules.

20 **IT IS FURTHER ORDERED** that any additional state court record exhibits filed
21 herein by either petitioner or respondents shall be filed with a separate index of exhibits
22 identifying the exhibits by number. The CM/ECF attachments that are filed further shall
23 be identified by the number of the exhibit in the attachment.

24 **IT IS FURTHER ORDERED** that the parties SHALL SEND courtesy copies of all
25 exhibits in this case to the Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, directed
26 to the attention of "Staff Attorney" on the outside of the mailing address label.

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Additionally, in the future, all parties shall provide courtesy copies of any additional exhibits submitted to the court in this case, in the manner described above.

DATED this 19th day of June, 2018



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE