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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

BRANDON M. JEFFERSON,

Petitioner,

v.

PERRY RUSSELL,<sup>1</sup> et al.,

Respondents.

Case No. 3:18-cv-00064-HDM-CLB

ORDER

On February 25, 2019, this court entered an order staying this action to allow petitioner to exhaust his state remedies for all his claims. ECF No. 34. On July 20, 2020, petitioner filed a motion to lift the stay and reopen these proceedings, indicating that his state court proceedings have been concluded. ECF No. 36. In response, respondents filed a notice indicating their non-opposition to petitioner's motion (ECF No. 37), but also filed a motion to dismiss (ECF No. 38) arguing that petitioner failed to comply with this court's order requiring him to file his motion to reopen proceedings within 45 days of the conclusion of state court proceedings.

Prior to filing his motion to lift the stay in this case and unbeknownst to respondents, petitioner filed a new habeas petition in this court (Case No. 3:20-CV-00301-RCJ-CLB), apparently under the mistaken assumption that that was the proper method to reopen his stayed habeas case. Petitioner initiated that proceeding prior to the deadline established in the court's stay order. See ECF No. 1; 3:20-CV-00301-RCJ-

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<sup>1</sup> Petitioner has been moved from Ely State Prison to Northern Nevada Correctional Center. ECF No. 43. Perry Russell, warden at NNCC, is substituted as the primary respondent in this case.

1 CLB. Because petitioner made a good faith effort to comply with the court's stay order,  
2 respondents' motion to dismiss will be denied.

3 Good cause appearing, the court shall reopen proceedings in this matter. In  
4 addition, the court shall establish a schedule for further litigation of this action.

5 **IT IS THEREFORE ORDERED** that petitioner's motion to lift stay (ECF No. 36) is  
6 GRANTED. The Clerk shall administratively REOPEN this action. The stay of this action  
7 is lifted.

8 **IT IS FURTHER ORDERED** that respondents' motion to dismiss (ECF No. 38) is  
9 DENIED. Respondents' motions for extension of time (ECF Nos. 41/44) are GRANTED  
10 *nunc pro tunc* as of their respective filing dates.

11 **IT IS FURTHER ORDERED** that the following schedule shall govern the further  
12 litigation of this action:


13 1. **Amended Petition.** Petitioner shall have **30 days** from the date this order is  
14 entered within which to file an amended habeas petition if he wishes to do so.

15 2. **Response to Petition.** Respondents shall have **60 days** following service of  
16 the amended petition (or the expiration of time for doing so) to file and serve an answer  
17 or other response to the petition.

18 3. **Reply and Response to Reply.** Petitioner shall have **45 days** following  
19 service of an answer by respondents to file a reply.

20 4. **Briefing of Motion to Dismiss.** If respondents file a motion to dismiss,  
21 petitioner shall have **30 days** following service of the motion to file an opposition to the  
22 motion. Respondents shall thereafter have **30 days** following service of the opposition  
23 to the motion to file and serve a reply.

24 DATED this 19th day of October, 2020.

25 

26 UNITED STATES DISTRICT JUDGE

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