

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JAMES T. CONWAY, III

Petitioner,

-vs-

MARC C. HOUK, Warden,

Respondent.

:

Case No. 3:07-cv-345

:

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

:

AMENDMENTS/ADDITIONS TO SCHEDULING ORDERS

This capital habeas corpus case came on for status conference by telephone at 9:30 A.M. on Monday, April 5, 2010. Marc Triplett and James Fleisher participated on behalf of Petitioner; Justin Lovett and Stephen Maher represented the Respondent.

In lieu of entertaining a formal motion to expand the record, the Court *sua sponte* ordered that all depositions taken in discovery be transcribed and filed and all documents obtained by Petitioner be likewise filed, in order to have a complete record of the discovery in the case and without deciding a priori the extent to which it is proper for the Court to consider the discovered material in deciding any particular matter or claim in the case. The parties confirmed that discovery is now complete.

Petitioner will file an amended reply/traverse in the case not later than April 26, 2010. Not later than May 26, 2010, Respondent shall file either an amended answer or a surreply to the amended traverse. In that document, however, captioned, Respondent shall assure that he has

pleaded all of the defenses on which he relies. The Court particularly requires that, not later than the referenced filing, Respondent take a position as to whether any claims made by Petitioner remain unexhausted in the sense that there is a remaining state court remedy potentially available to Petitioner.

The case is before the Court on Petitioner's Motion for Evidentiary Hearing (Doc. No. 52). The time within which Respondent shall file his response to that motion is extended to and including June 10, 2010.

The case is also before the Court on Petitioner's Unopposed Motion for Approval of his Phase 3 budget in this case. The Magistrate Judge also conducted a brief hearing on this matter on April 5, 2010, subsequent to the status conference noted above, but ex parte as permitted by 18 U.S.C. § 3599. As a result of that conference, the Magistrate Judge has forwarded a proposed order approving the Phase 3 budget and will forward the same to Circuit Judge Rogers in the form and amounts approved by Judge Rice.

April 5, 2010.

s/ **Michael R. Merz**
United States Magistrate Judge