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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 ROBERT LEE YATES, JR.,

9 Petitioner,

10 v.

11 STEPHEN D. SINCLAIR,

12 Respondent.

Case No. C13-0842RSM

ORDER ON PETITIONER'S MOTION TO
AUTHORIZE RELIANCE UPON
EVIDENCE PRESENTED DURING THE
EVIDENTIARY HEARING

THIS IS A CAPITAL CASE

13 THIS MATTER came before the Court on Petitioner's Motion to Authorize Reliance
14 Upon Evidence Presented during the Evidentiary Hearing. Dkt. #99. Petitioner asks the
15 Court to allow him to rely on evidence admitted at his recent evidentiary hearing, when
16 prosecuting his current habeas petition. *Id.* The Court finds this motion wholly unnecessary.
17 As Respondent has noted, the Court previously ruled that three of Petitioner's habeas claims –
18 claims 2, 6, and 10 from his First Amended Petition – warranted further factual development
19 and therefore the Court conducted an evidentiary hearing concerning those three claims on
20 March 6-7, 2017. Dkt. #100 at 1. In its Order directing that the hearing be conducted, the
21 Court informed the parties that it would consider evidence from that hearing when evaluating
22 Petitioner's claims. *See* Dkt. #64. Indeed, that was the very purpose of the hearing.
23 Moreover, Respondent agrees the Court may consider the testimony and evidence presented at
24 the evidentiary hearing. Dkt. #100 at 1. Thus, it is not clear why Petitioner filed the instant
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1 motion. However, since there are no objections, and to make the record clean, the Court will
2 grant Petitioner's motion.

3 In addition, it now appears that both parties agree no second amended habeas petition
4 is required as a result of the evidentiary hearing. Dkts. #99 and #100.

5 Accordingly, the Court hereby ORDERS:

- 6 1. Plaintiff's Motion for Reliance on Evidence (Dkt. #99) is GRANTED.
- 7 2. **No later than ten (10) days from the date of this Order** the parties shall
8 submit a proposed briefing schedule setting forth a timeline for any
9 supplemental briefing on Petitioner's existing Claims 2, 6 and 10 as a result of
10 the evidentiary hearing, and for Petitioner's Reply brief. Once a proposed
11 briefing schedule has been received, the Court will review the proposal and
12 issue an Order setting a briefing schedule and replacing Petitioner's habeas
13 petition for consideration on the Court's motion calendar.
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16 DATED this 30 day of May, 2017.

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19 RICARDO S. MARTINEZ
20 CHIEF UNITED STATES DISTRICT JUDGE
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