

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 ROBERT BYRON LEE,

11 Petitioner,

12 v.

13 STATE OF WASHINGTON,

14 Respondent.

CASE NO. 3:17-CV-05002-BHS-JRC

ORDER DENYING MISCELLANEOUS  
MOTIONS

15  
16 The District Court has referred this petition for a writ of habeas corpus to United States  
17 Magistrate Judge, J. Richard Creatura. The authority for the referral is 28 U.S.C. § 636(b)(1)(A)  
18 and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner seeks relief from a state  
19 conviction, thus, the petition is filed pursuant to 28 U.S.C. § 2254.

20 Before the Court is petitioner's motion to receive a decision (Dkt. 32), motion to stay the  
21 decision (Dkt. 35), motion to stay pending review for decision under FRAP Rule 18 (Dkt. 37),  
22 and motion to receive a status and supplemental answer (Dkt. 38).

23 Having reviewed the motions and the balance of the record, the Court finds that the  
24 motions should be denied as moot (Dkts. 32, 35, 37, 38).

1 **DISCUSSION**

2 **I. Motion to Receive a Decision, Motion to Stay the Decision, and Motion to Stay**  
3 **Pending Review for Decision Under FRAP Rule 18**

4 Petitioner asks the Court both to render a decision on petitioner’s first noting date, May  
5 12, 2017, Dkt. 32, and to stay consideration pending the outcome of his appeal to the Ninth  
6 Circuit. Dkts. 35, 37. The mandate for petitioner’s Ninth Circuit appeal was filed on June 7,  
7 2017. Dkt. 36. The clerk re-noted his petition and set it ready for consideration as of July 28,  
8 2017. The Court is currently considering petitioner’s habeas petition and has not yet rendered a  
9 decision. Because the Ninth Circuit has issued its mandate and because the Court is still  
10 considering his petition, the Court denies all three motions as moot (Dkts. 32, 35, 37).

11 **II. Motion to Receive Case Status and Supplemental Answer**

12 In his final motion, petitioner asks the Court to provide the “current status of this case”  
13 and to provide him with a copy of the State’s supplemental answer to his petition. Dkt. 38.  
14 Petitioner requested the supplemental answer three days before such filing was due. *See id.*  
15 However, the State has already filed its supplemental response on the day it was due (three days  
16 after petitioner filed his motion). Petitioner should have received the response via email, and the  
17 Clerk has forwarded an updated copy of the docket sheet to petitioner. Dkts. 41, 45. He also asks  
18 for a designated noting date for a decision, which is July 28, 2017, and which was entered into  
19 the docket on July 10, 2017. *See* Docket entry on 07/10/17. Therefore, the Court denies this  
20 motion as moot, as well (Dkt. 38).

1 **CONCLUSION**

2 For the reasons stated, the Court denies plaintiff's motions as moot. Dkts. 32, 35, 37, 38.

3 Dated this 2nd day of August, 2017.

4 

5 J. Richard Creatura  
6 United States Magistrate Judge

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24