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FRESNO COUNTY SUPERIOR COURT
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO
CENTRAL DIVISION

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|------------------------------|---|------------------------|
| In re Douglas R. Stankewitz, |) | Case No. 21CRWR685993 |
| |) | |
| Petitioner, |) | Dept. 62 |
| |) | |
| On Habeas Corpus. |) | ORDER FOR SUPPLEMENTAL |
| |) | BRIEFING |

In this habeas corpus proceeding, Petitioner Douglas R. Stankewitz seeks to vacate his convictions on several grounds. After this Court issued an order to show cause and a return and denial were filed, an evidentiary hearing was conducted. After written closing arguments were filed, this matter was taken under submission. Now, the Court takes the matter out from under submission and orders that Petitioner submit supplemental briefing on the following issues:

- (1) The Legal Basis of Claims 1, 2, and 6:
 In the amended petition, the legal basis of Claims 1 and 2 are violations of the rights enumerated in *Brady v. Maryland*, the right to due process, the right to present a defense, and the right to counsel. The legal basis of Claim 6 is violations of *Brady* and the right to due process. Petitioner's closing argument brief ("closing brief") "reframes" claims 1, 2, and 6 as "false evidence" claims under Penal Code section 1473, subdivision

1 (b) (1) (A). However, Petitioner's closing brief does not
2 state whether the legal basis for those claims as alleged
3 in the amended petition have been withdrawn, or whether
4 section 1473 is to be treated as an additional legal basis
5 for Claims 1, 2, and 6. Petitioner's supplemental brief
6 shall identify each legal theory supporting Claims 1, 2,
7 and 6.

8 (2) Status of Prosecutorial Misconduct Claim:

9 On January 31, 2024, Petitioner's counsel stated "[b]ased
10 on my review of the way Miss Smittcamp handled the
11 situation with Mr. Ardaiz, based on my review of the boxes
12 and everything, we're going to withdraw our ongoing
13 prosecutorial misconduct claim." (January 31, 2024
14 Evidentiary Hearing Transcript, p. 7:15-18.)

15 Consequently, the Court understood that Petitioner was
16 withdrawing at least some portion of his prosecutorial
17 misconduct claim. However, Petitioner's closing brief
18 contains approximately 8 pages of argument regarding
19 alleged prosecutorial misconduct. Petitioner's
20 supplemental brief shall indicate which portions of
21 Petitioner's prosecutorial misconduct claim were withdrawn
22 on January 31, 2024.

23 (3) Status of Claims "Submitted" and "Submitted on the
24 Record":

25 Petitioner's closing brief states that Claim 8 is
26 "submit[ted]." Footnote 1 of Petitioner's closing brief
27 states: "At the end of each section, we have listed as
28 submitted the sub claims [sic] for which we did not

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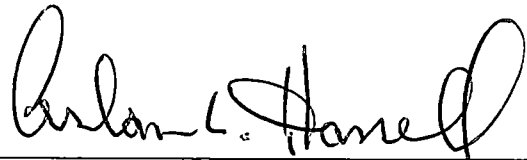
present evidence at the EH." However, Petitioner's closing brief further characterizes numerous subclaims as "submitted on the record." Given Petitioner's concession in footnote 1 that no evidence was presented at the evidentiary hearing regarding the "submitted" subclaims, it is unclear what "record" exists to support the "submitted" claim and subclaims. Accordingly, Petitioner's supplemental brief shall identify the "record" on which each and every "submitted" claim and subclaim is based.

Petitioner's supplemental brief shall be filed and served 30 days from the date of service of this order.

Within 30 days after service and filing of Petitioner's supplemental brief, Respondent may, but is not required to, file its own supplemental brief in response. Within 20 days after service and filing of Respondent's supplemental brief, Petitioner may, but is not required to, file its own supplemental rebuttal brief.

The case will be resubmitted as of the date that Petitioner's supplemental rebuttal brief is filed and served. If Respondent does not file a supplemental brief, the case will be resubmitted on the expiration of Respondent's allotted time to file.

DATED this 5TH day of August, 2024.



Arlan L. Harrell
Judge of the Superior Court