

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

[NAME],

Case No. 1:##-cv-#####-AWI

Petitioner,

DEATH PENALTY CASE

vs.

ORDER FOLLOWING JOINT STATUS  
CONFERENCE HEARING; SETTING DATE  
FOR EVIDENTIARY HEARING AND  
PRE-HEARING

Warden of California State Prison  
at San Quentin

Respondent.

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This matter came on for a status conference hearing before the above entitled Court on [DATE] at 3:00 p.m., the Honorable [NAME] presiding. Petitioner [NAME] was represented at the hearing by his counsel of record [NAME] and [NAME]. Respondent Warden of California State Prison at San Quentin (the “Warden”) was represented by Deputy Attorneys General [NAME] and [NAME]. All counsel appeared telephonically. The status conference hearing was continued from [DATE] for the purpose of discussing what discovery and investigation the parties have yet to complete in preparation for the anticipated evidentiary hearing ordered pursuant to the Court's [DATE] order.

The parties agreed that Petitioner's discovery and pre-evidentiary hearing litigation strategy will be informed by the discovery conducted by the Warden. Once the Warden undertakes pre-evidentiary hearing discovery, Petitioner's litigation team will

formulate a rebuttal. The parties also discussed possible dates on which the evidentiary hearing could be scheduled. Two two-week periods, one beginning on [DATE] and the other beginning on [DATE], were both rejected by the parties. The parties did, however, agree on a two week period commencing on [DATE] for the evidentiary hearing. The Court explained that deadlines for completion of discovery, the exchange of witness lists, and the filing of documents with the Court would be established based on this scheduled date. The Court also mentioned the necessity of the parties seeking leave of Court to conduct discovery, as required by Rule 6 of the Rules Governing § 2254 Cases. Finally, the Court discussed with the parties the disposition of Claim 22 in the Petition, which alleges juror misconduct by Juror [X.X.] The Court will not dictate what papers, if any, the parties should file with respect to Claim 22, only that any filings must be received in accordance with the schedule for filing motions, stipulations, supplemental briefs, exhibits, and declarations, below.

Based on the foregoing facts, and in light of the entire record in this action,  
IT IS ORDERED:

1. The evidentiary hearing ordered pursuant to this Court's [DATE] Order will commence on [DATE] at 9:00 a.m.
2. All discovery to be conducted in advance of the evidentiary hearing shall be completed by [DATE]. The parties are directed to comply with Rule 6 of the Rules Governing § 2254 Cases in conducting discovery. If a deposition is contemplated as part of the discovery process, the parties shall provide the Court with copies of the proposed subpoenas and deposition notices for which Court approval is sought. The discovery deadline may be extended only for an additional showing of good cause, diligence, and unavoidable circumstances beyond that required by Rule 6.

3. Witness lists of the individuals each party contemplates calling in his/her case in chief at the evidentiary hearing shall be exchanged no later than [DATE]. This list will include lay, expert, and percipient witnesses. Impeachment and rebuttal witnesses, if any, shall be designated in supplemental witness lists and exchanged no later than [DATE].
4. A post-discovery, pre-evidentiary hearing conference will be conducted on [DATE] in this Court at 3:00 p.m. At that conference, the parties will be prepared to discuss any pre-evidentiary hearing issues that will facilitate the conduct of the hearing. Following discussion of these topics and other case management issues suitable for discussion by both parties, counsel for the Warden will be excused and further discussion concerning the budget will continue with counsel for Petitioner only.
5. All motions, stipulations, supplemental briefs, exhibits, and declarations shall be served and filed with the Court no later than [DATE]. Any responsive or opposing briefs, exhibits, or declarations shall be filed no later than [DATE]. The Court will resolve all disputed issues by [DATE].

Dated: \_\_\_\_\_

\_\_\_\_\_  
[NAME]

United States District Judge