

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Michael Ray White,
Petitioner,

V.

Charles L. Ryan, et al.,
Respondents.

No. CV 08-8139-PCT-GMS

DEATH PENALTY CASE

ORDER

The parties seek leave to file certain documents relating to Petitioner's competency under seal. These include confidential medical records from the Arizona Department of Corrections, privileged attorney-client communications between Petitioner and habeas counsel, privileged attorney work product, and the experts' competency evaluation reports. These documents have been proffered by order of the Court for the purpose of determining Petitioner's mental competency pursuant to *Rohan ex rel. Gates v. Woodford*, 334 F.3d 803 (9th Cir. 2003).

The Court has considered the motions and finds good cause to file the materials under seal. None of this information would have been available to the public but for counsel's concerns regarding their client's competency to assist them in these federal habeas proceedings. Furthermore, Petitioner has not at this point sought to use any of this information in support of his habeas petition. *See Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006) (observing that "the public has less of a need

1 for access to court records attached only to non-dispositive motions”). Accordingly, the
2 Court will order that the materials be filed under seal, with the understanding that either party
3 may move to unseal in the future.

4 Respondents have also requested exemption from the Court’s electronic filing
5 requirement for the filing of Exhibit MMM. Because this exhibit is a compact disc, the
6 motion will be granted.

7 Based on the foregoing,

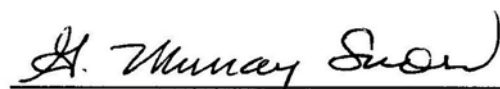
8 **IT IS ORDERED** that Respondents’ Motion to Accept Hard Copy of Exhibit MMM
9 to Respondents’ Materials Relevant to Competency Determination (Dkt. 113) is **GRANTED**.
10 The Clerk of Court shall accept a hard copy of Exhibit MMM for filing.

11 **IT IS FURTHER ORDERED** that Respondents’ Motion to File Documents Relevant
12 to Petitioner’s Competency Under Seal (Dkt. 124) is **GRANTED**. The Clerk of Court shall
13 file the lodged documents (Dkts. 125, 126, 128 & 129) under seal.

14 **IT IS FURTHER ORDERED** that Petitioner’s Motion to File Exhibits Under Seal
15 (Dkt. 132) is **GRANTED**. The Clerk of Court shall filed the lodged documents (Dkts. 133
16 & 134) under seal.

17 **IT IS FURTHER ORDERED** that Petitioner’s Motion to File Respondents’ Exhibit
18 “A” Under Seal (Dkt. 135) is **GRANTED**. The Clerk of Court shall file Exhibit A of Dkt.
19 102 under seal.

20 DATED this 11th day of May, 2010.

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23 G. Murray Snow
24 United States District Judge
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