

1 SEAN K. KENNEDY (No. 145632)
Federal Public Defender
2 JOSEPH TRIGILIO (No. 245373)
(E-mail: joseph_trigilio@fd.org)
3 STATIA PEAKHEART (No. 200363)
(E-mail: statia_peakheart@fd.org)
4 Deputy Federal Public Defenders
321 East 2nd Street
5 Los Angeles, California 90012-4202
Telephone (213) 894-7525
6 Facsimile (213) 894-0081
Attorneys for Petitioner

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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 **VICTOR PLATAS,**

11 Petitioner,

12 v.

13 **A.K. SCRIBNER (Warden),**

14 Respondent.

CV 04-3383-CBM (CW)

**PROTECTIVE ORDER RE:
LIMITED WAIVER OF
ATTORNEY-CLIENT
PRIVILEGE FOR PURPOSE OF
EVIDENTIARY HEARING**

United States Magistrate Judge
Hon. Carla M. Woehrle

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17 For GOOD CAUSE shown,

18 Pursuant to *Bittaker v. Woodford*, 331 F.3d 715 (9th Cir. 2003), the Court
19 enters the following Protective Order regarding: (1) documents and materials from
20 trial counsel's files that Petitioner provides to Respondent relevant to claims One
21 and Two pursuant to *Bittaker* and orders by this Court; (2) any testimony regarding
22 attorney-client matters provided at the evidentiary hearing in this matter; and (3)
23 any reference to such documents or testimony in the parties' pleadings submitted to
24 the Court.

25 1. To the extent that the Court orders the production of discovery that
26 Petitioner contends are subject to claims of privilege or protected from disclosure
27 by the attorney work product doctrine, a protective order is necessary. Petitioner
28 and Respondent agree that such discovery shall be subject to this Protective Order

1 and shall remain confidential and sealed. Petitioner contends that the testimony
2 provided by these witnesses is subject to the claims of privilege and/or protected
3 from disclosure by the attorney work product doctrine. During the evidentiary
4 hearing scheduled in this case, any testimony by Petitioner, trial counsel, and any
5 trial defense team member shall be subject to this Protective Order and shall
6 remain confidential and sealed.

7 2. All privileged documents and testimony produced to Respondent in
8 this action may be used only for purposes of litigating this habeas corpus
9 proceeding by: (a) Petitioner and the members of the legal team, i.e., lawyers,
10 paralegals, investigators, and support staff, assigned to *Platas v. Scribner*, Case
11 No. CV 04-3383-CBM (CW) (C.D. Cal.), by Petitioner's counsel; and (b)
12 Respondent and the members of the of the legal team, i.e., lawyers, paralegals,
13 investigators, and support staff, assigned to *Platas v. Scribner*, Case No. CV 04-
14 3383-CBM (CW) (C.D. Cal.), by the Attorney General's Office. This protective
15 order extends to members of the legal teams and all persons retained by the parties
16 to litigate this matter. All such individuals shall be provided with a copy of this
17 Protective Order.

18 3. Except for disclosure to the persons and agencies described in
19 Paragraph 2, disclosure of the contents of the documents and testimony and the
20 documents and testimony themselves shall not be made to any other persons or
21 agencies, including but not limited to, prosecutorial agencies or law enforcement
22 personnel, without the Court's order or permission from Petitioner's counsel.

23 4. Documents and testimony that Petitioner contends are privileged shall
24 be clearly designated as such by labeling the documents or testimony in a manner
25 that does not prevent reading the text of the documents.

26 5. All documents and testimony designated as privileged by Petitioner
27 that are submitted to this Court shall be submitted under seal in a manner reflecting
28 their confidential nature and designed to ensure that the privileged material will not

1 become part of the public record. Privileged testimony shall be clearly designated
2 as such by marking the transcript of the proceeding. Any pleading or other papers
3 served on opposing counsel or lodged with the Court that contains or reveals the
4 substantive content of the privileged matter shall be filed under seal pursuant to the
5 Local Rules and shall include a separate caption page that includes the following
6 confidentiality notice or its equivalent:

7 **“TO BE FILED UNDER SEAL**
8 **THIS PLEADING OR DOCUMENT CONTAINS**
9 **CONFIDENTIAL INFORMATION SUBJECT TO A**
10 **PROTECTIVE ORDER (DOCKET NO. __) AND IS NOT TO**
11 **BE OPENED NOR ITS CONTENTS DISPLAYED OR**
12 **DISCLOSED”**

13 6. If privileged documents or documents containing privileged matters
14 are filed with this Court, they shall be filed with the clerk of the Court in sealed
15 envelopes prominently marked with the caption of this case and the foregoing
16 Confidentiality Notice. Insofar as reasonably feasible, only confidential portions
17 of the filings shall be under seal; and the parties shall tailor their documents to
18 limit, as much as practicable, the quantity of material that is to be filed under seal.
19 When a pleading or documents contains only a limited amount of privileged
20 content, a party may file a complete copy under seal and at the same time file on
21 the public record an additional, redacted version of the document, blocking out the
22 limited matter comprising the confidential portions.

23 7. Petitioner’s disclosure of documents from trial counsel’s file in this
24 action, and any related testimony by Petitioner or his trial counsel at the
25 evidentiary hearing in this case, does not constitute a waiver of Petitioner’s rights
26 under the Fifth and Sixth Amendments to the United States Constitution in the
27 event of any retrial.

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PROOF OF SERVICE

I, ROSANA ALVARADO, declare that I am a resident or employed in Los Angeles County, California; that my business address is the Office of the Federal Public Defender, 321 East 2nd Street, Los Angeles, California 90012-4202, Telephone No. (213) 894-2854; that I am over the age of eighteen years; that I am not a party to the action entitled below; that I am employed by the Federal Public Defender for the Central District of California, who is a member of the Bar of the United States District Court for the Central District of California, and at whose direction I served a copy of the attached **[PROPOSED] PROTECTIVE ORDER RE:**

LIMITED WAIVER OF ATTORNEY-CLIENT PRIVILEGE FOR

PURPOSE OF EVIDENTIARY HEARING on the following individual(s) by:

- | | | | |
|--|--|---|--|
| <input type="checkbox"/> Placing same in a sealed envelope for collection and interoffice delivery addressed as follows: | <input type="checkbox"/> Placing same in an envelope for hand-delivery addressed as follows: | <input checked="" type="checkbox"/> Placing same in a sealed envelope for collection and mailing via the United States Post Office, addressed as follows: | <input type="checkbox"/> Faxing same via facsimile machine addressed as follows: |
|--|--|---|--|

Victor Platas
T-24312
P.O. Box 5242
Corcoran, CA 93212

This proof of service is executed at Los Angeles, California, on **October 23, 2008.**

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Rosana Alvarado
ROSANA ALVARADO