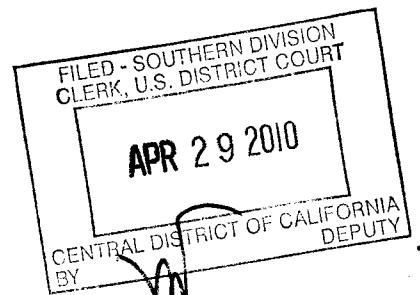


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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 **ERNEST DEWAYNE JONES,**
Petitioner,
v.
13 **ROBERT K. WONG, Acting Warden**
of California State Prison at San
14 **Quentin,**
Respondent.

CV-09-2158-CJC
DEATH PENALTY CASE
APPLICATION TO LODGE
PROBATION REPORT UNDER
SEAL
Hon. Cormac J. Carney
U.S. District Judge

15 Pursuant to Local Rules of the United States District Court -- Central District,
16 Rules 79-5.1 and 79-5.4, Respondent in the above-entitled matter files this
17 Application to Lodge Probation Report Under Seal. Accompanying this
18 Application is a copy of a nineteen-page volume of Clerk's Transcript in the case of
19 *People v. Ernest Dwayne Jones*, Los Angeles County Superior Court case number
20 BA063825, which contains Petitioner's confidential probation report.¹

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27 ¹ On April 6, 2010, Respondent lodged with this Court, pursuant to Local
28 Rules of the United States District Court -- Central District, Rule 83-17.7, the
transcripts of the state court trial proceedings. However, Respondent inadvertently
(continued...)

LOGGED

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U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA
[signature]

1 Under Central District Local Rule 79-5.4, presentence investigation reports are
2 not to be included in the public case file. Furthermore, California Civil Code
3 section 1798 et seq. provides for the protection of personal information in the
4 possession of governmental and other agencies. Specifically, California Civil Code
5 section 1798.24 provides that “no agency may disclose any personal information in
6 a manner that would link the information disclosed to the individual to whom it
7 pertains” unless an exception can be found. Here, Petitioner’s confidential
8 probation report contains criminal offender information which should be protected
9 pursuant to California Penal Code sections 11081, 11105 et seq., 11125, 11141, and
10 13302. These statutes generally provide that summary criminal history information
11 may not be furnished unless specifically authorized. Unauthorized release is a
12 misdemeanor. Cal. Penal Code §§ 11141, 13302.

13 Petitioner’s confidential probation report also contains victim/witness
14 information. This information is also protected under California law. See, e.g.,
15 Cal. Penal Code §§ 841.5, 1054.2.

16 To Respondent’s knowledge, Petitioner’s confidential probation report has not
17 previously been made subject to public inspection pursuant to California Penal
18 Code section 1203.05.

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26 _____
27 (...continued)
28 omitted the volume of Clerk’s Transcript containing Petitioner’s confidential
probation report.

1 For the foregoing reasons, Respondent respectfully requests that this Court
2 order that the attached confidential probation report be lodged under seal. See Cal.
3 Civ. Code § 1798.24(k); Cal. Penal Code §§ 841.5, 11105(c)(6).

4 Dated: April 26, 2010

Respectfully submitted,

5 EDMUND G. BROWN JR.
6 Attorney General of California
7 DANE R. GILLETTE
8 Chief Assistant Attorney General
9 PAMELA C. HAMANAKA
10 Senior Assistant Attorney General
11 A. SCOTT HAYWARD
12 Deputy Attorney General



13 HERBERT S. TETEF
14 Deputy Attorney General
15 *Attorneys for Respondent*

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: *Ernest Dewayne Jones v. Robert K. Wong, Acting Warden*
No.: **CV-09-2158-CJC (DEATH PENALTY CASE)**

I declare:

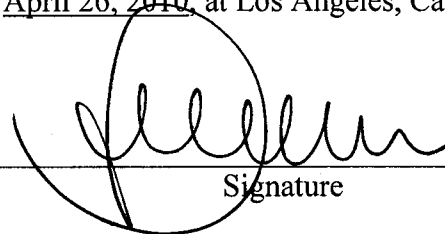
I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On April 26, 2010, I served the attached **APPLICATION TO LODGE PROBATION REPORT UNDER SEAL** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

Patricia C. Daniels, Esq.
Michael Laurence, Esq.
Cliona R. Plunkett, Esq.
Habeas Corpus Resource Center
303 Second Street, Suite 400 South
San Francisco, CA 94107

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 26, 2010, at Los Angeles, California.

Frances Conroy
Declarant



Signature

HST:fc
LA2009505879
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