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9 UNITED STATES DISTRICT COURT
10 FOR CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION
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12 Ernest Dewayne Jones,

13 Petitioner,

14 v.

15 Vincent Cullen, Acting Warden of
California State Prison at San Quentin,

16 Respondent
17

Case No. CV-09-2158-CJC

DEATH PENALTY CASE

PETITIONER'S UNOPPOSED EX
PARTE APPLICATION FOR A 60-
DAY EXTENSION OF TIME TO
FILE HIS MOTION FOR
EVIDENTIARY HEARING;
DECLARATION OF MICHAEL
LAURENCE

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19 Pursuant to Rule 7-19 of the Local Rules for the United States District Court for
20 the Central District of California, petitioner Ernest Dewayne Jones hereby applies for
21 an order granting a 60-day extension of time, to an including January 4, 2011, to file
22 his Motion for Evidentiary Hearing. The Motion for Evidentiary hearing is currently
23 due to be filed November 5, 2010.

24 The basis for this request is set forth in the attached Declaration of Michael
25 Laurence. Petitioner has advised counsel for respondent of this request, and counsel
26 does not oppose this application. The contact information for counsel for respondent is
27 as follows:
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1 HERBERT S. TETEF
2 Deputy Attorney General
3 300 South Spring Street, Suite 1702
4 Los Angeles, CA 90012
5 Telephone: (213) 897-0201
6 Facsimile: (213) 897-6496
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10 Dated: November 1, 2010

Respectfully submitted,

11 HABEAS CORPUS RESOURCE CENTER

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/s/ Michael Laurence

By: Michael Laurence
Attorneys for Ernest Dewayne Jones

**DECLARATION OF MICHAEL LAURENCE IN SUPPORT OF
PETITIONER'S EX PARTE APPLICATION FOR A 60-DAY EXTENSION OF
TIME TO FILE HIS MOTION FOR EVIDENTIARY HEARING**

I, Michael Laurence, declare as follows:

1. I am an attorney at law admitted to practice by the State of California and before this Court. I am the Executive Director of the Habeas Corpus Resource Center. I was appointed as lead counsel for petitioner Ernest DeWayne Jones in the above-referenced matter by this Court in an order dated April 14, 2009.

2. On March 10, 2010, petitioner filed a Petition for Writ of Habeas Corpus by a Prisoner in State Custody (28 U.S.C. § 2254). Respondent filed an Answer to Petition for Writ of Habeas Corpus on April 6, 2010.

3. The parties submitted a joint briefing schedule that this Court adopted on April 12, 2010.

4. On July 7, 2010, the parties submitted a joint stipulation regarding discovery and a proposed briefing schedule in which the parties agreed to adhere to the briefing schedule outlined in the April 8, 2010 joint stipulation. This Court adopted the stipulation of the parties by order dated July 12, 2010.

5. In accordance with the Joint Briefing Schedule, petitioner's Motion for Evidentiary Hearing is due on November 5, 2010.

6. I will be unable to file petitioner's Motion for Evidentiary Hearing by November 5, 2010. Petitioner's motion requires extensive and time consuming factual research and wide-ranging investigation encompassing every factual allegation in the Petition because respondent apparently will deny all facts raised in the Petition.

7. Our ability to file the motion on November 5, 2010, has also been adversely affected by unforeseen events in other capital cases. At the time that the parties agreed to the timeline set forth in the Joint Briefing Schedule, the California Department of Corrections and Rehabilitation (CDCR) did not have regulations in effect to govern lethal injection executions. Moreover, my expectations were that

1 executions would not be scheduled prior to termination of then pending litigation in the
2 federal district court and anticipated litigation in the state court concerning any
3 regulations the CDCR adopted. In early August 2010, the State announced its
4 intention to seek immediate executions in several cases, including one case in which
5 the HCRC was appointed counsel and for which I am the supervisor. In addition, on
6 August 12, 2010, HCRC was appointed by the California Supreme Court to represent
7 death row inmate, Stevie Fields, in executive clemency and other post-conviction
8 proceedings. At the time we were appointed, Mr. Fields had a hearing to set his
9 execution scheduled for August 16, 2010. Although the hearing date was stayed by the
10 California Supreme Court after our appointment, as the supervisor on the case I had to
11 devote a significant amount of time to overseeing, organizing, and assigning duties and
12 responsibilities for various tasks involved with taking on a case of this magnitude at
13 such a critical stage in litigation.

14 8. In addition to preparing the Motion for Evidentiary Hearing in this case, I
15 am currently preparing for the final testimony in an evidentiary hearing in *Ashmus v.*
16 *Wong*, No. 93-CV-00594-TEH, to be held mid-November before the District Court for
17 the Northern District of California.

18 9. In my position as Executive Director of HCRC, I have ongoing
19 administrative and managerial responsibilities as well as being a supervising attorney
20 on several matters before the California Supreme Court. I am the supervising attorney
21 on California Supreme Court Case No. S161036 in which a petition for writ of habeas
22 corpus is due to be filed December 7, 2010. In the meantime, I am also responsible for
23 supervising the filing of an Informal Reply on November 8, 2010 in California
24 Supreme Court Case No. S066377.

25 10. On October 26, 2010, Ms. Cliona Plunkett, counsel for petitioner, spoke
26 to Herbert Tetef, counsel for respondent, and informed him of the substance of this
27 request for additional time, including the proposed due date. Mr. Tetef authorized
28 petitioner's counsel to represent to the Court that he has no objection to this request.

1 11. There have been no prior requests for continuances with respect to the
2 filing of petitioner's Motion for Evidentiary Hearing.

3 The foregoing is true and correct and executed under penalty of perjury under
4 the laws of the United States on November 1, 2010.

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7 /s/ Michael Laurence
8 Michael Laurence
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