

1 MICHAEL LAURENCE, State Bar No. 121854
 2 PATRICIA DANIELS, State Bar No. 162868
 3 CLIONA PLUNKETT, State Bar No. 256648
 4 HABEAS CORPUS RESOURCE CENTER
 5 303 Second Street, Suite 400 South
 6 San Francisco, California 94107
 7 Telephone: (415) 348-3800
 8 Facsimile: (415) 348-3873
 9 Email: docketing@hrc.ca.gov
 mlaurence@hrc.ca.gov
 pdaniels@hrc.ca.gov
 cplunkett@hrc.ca.gov
 Attorneys for Petitioner ERNEST DEWAYNE JONES

10
 11 **UNITED STATES DISTRICT COURT**
 12 **FOR THE CENTRAL OF CALIFORNIA, SOUTHERN DIVISION**

13 ERNEST DEWAYNE JONES,
 14 Petitioner,
 15
 16 v.
 17 Vincent Cullen, Warden of California
 18 State Prison at San Quentin,
 19 Respondent.

Case No. CV-09-2158-CJC
DEATH PENALTY CASE
 PETITIONER’S EX PARTE
 APPLICATION TO FILE OVERSIZE
 MOTION FOR AN EVIDENTIARY
 HEARING
 No Hearing Date Requested

22 Pursuant to Local Rule 7-19 and 11-6, petitioner, through his counsel,
 23 hereby requests permission to file Petitioner’s Motion for An Evidentiary Hearing
 24 in excess of 25 pages.

25 The basis for this request is set forth in the attached Declaration of Michael
 26 Laurence. Petitioner has advised counsel for respondent of this request, and
 27

28 EX PARTE APP TO FILE OVERSIZE MOTION
 FOR EVIDENTIARY HEARING
 CV-09-2158-CJC

1 counsel does not oppose this application. The contact information for counsel for
2 respondent is as follows:

3
4 HERBERT S. TETEF
5 Deputy Attorney General
6 300 South Spring Street, Suite 1702
7 Los Angeles, CA 90012
8 Telephone: (213) 897-0201
9 Facsimile: (213) 897-6496
10 Email: DocketingLAAWT@doj.ca.gov

11 Dated: February 17, 2011

12 Respectfully submitted,
13 HABEAS CORPUS RESOURCE CENTER

14 /s/ Michael Laurence _____

15 By: Michael Laurence

16 Attorneys for Ernest Dewayne Jones
17
18
19
20
21
22
23
24
25
26
27

1 **DECLARATION OF MICHAEL LAURENCE**

2 I, Michael Laurence, declare as follows:

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

7 2. Pursuant to the parties' stipulated briefing schedule, which was
8 adopted by the Court in an order dated July 12, 2010, and extensions of time
9 granted by this Court, petitioner is to file his Motion For An Evidentiary Hearing
10 on February 17, 2010.

11 3. Petitioner seeks permission to file a pleading that is in excess of 25
12 pages. The length of petitioner's Motion For Evidentiary Hearing is attributable to
13 three factors, all of which are out of petitioner's control: (1) Local Rule 83-17.7(g)
14 requires that petitioner "include a specification of the factual issues and the legal
15 reasoning that require a hearing and a summary of the evidence of each claim the
16 movant proposes to offer at the hearing"; (2) the failure of the California Supreme
17 Court to afford petitioner a hearing on any of his claims; and, (3) respondent's
18 failure to narrow the facts that are in dispute.

19 4. On February 16, 2011, Ms. Patricia Daniels, counsel for petitioner,
20 spoke to Herbert Tetef, counsel for respondent, and informed him of the substance
21 of this request. Mr. Tetef authorized petitioner's counsel to represent to the Court
22 that he has no objection to this application.

23 5. I therefore respectfully request permission to file the accompanying
24 oversized Motion For Evidentiary Hearing.

25 //

26 //

27 //

1 I declare under penalty of perjury under the laws of the United States
2 and the State of California that the foregoing is true and correct and that this
3 declaration was executed on February 17, 2011.

4
5
6 /s/ Michael Laurence

7 Michael Laurence
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28