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

15 **ERNEST DEWAYNE JONES,**  
 16  
 Petitioner,  
 17  
 v.  
 18  
**MICHAEL MARTEL, Acting**  
 19 **Warden of California State Prison at**  
**San Quentin,**  
 20  
 Respondent.

CV 09-2158-CJC  
**DEATH PENALTY CASE**  
**UNOPPOSED APPLICATION FOR**  
**ENLARGEMENT OF TIME TO**  
**FILE OPPOSITION TO**  
**PETITIONER’S SUPPLEMENTAL**  
**BRIEF ON THE EFFECT OF**  
**CULLEN v. PINHOLSTER ON THE**  
**COURT’S POWER TO GRANT AN**  
**EVIDENTIARY HEARING;**  
**DECLARATION OF HERBERT S.**  
**TETEF**  
 Honorable Cormac J. Carney  
 United States District Judge

27 Respondent respectfully moves for an enlargement of time to and including  
 28 September 14, 2011, in which to file an Opposition to Petitioner’s Supplemental

1 Brief on the Effect of *Cullen v. Pinholster* on the Court's Power to Grant an  
2 Evidentiary Hearing. This Application is unopposed and is based on good cause as  
3 set forth in the attached Declaration of Herbert S. Tetef.

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Dated: August 11, 2011

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
DANE R. GILLETTE  
Chief Assistant Attorney General  
PAMELA C. HAMANAKA  
Senior Assistant Attorney General  
KEITH H. BORJON  
Supervising Deputy Attorney General

*/s/ Herbert S. Tetef*  
HERBERT S. TETEF  
Deputy Attorney General  
*Attorneys for Respondent*

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1 **DECLARATION OF HERBERT S. TETEF REGARDING APPLICATION**  
2 **FOR ENLARGEMENT OF TIME**

3 I, HERBERT S. TETEF, hereby declare under penalty of perjury under the  
4 laws of the United States of America that the following is true and correct:

5 1. I am a Deputy Attorney General of the State of California and am  
6 preparing the pleadings on behalf of the Respondent in the instant case of *Ernest*  
7 *Dewayne Jones v. Michael Martel, Acting Warden of California State Prison at San*  
8 *Quentin*, CV 09-2158-CJC.

9 2. Petitioner's Supplemental Brief on the Effect of *Cullen v. Pinholster*  
10 on the Court's Power to Grant an Evidentiary Hearing was filed on July 18, 2011.  
11 Respondent's Opposition to Petitioner's Supplemental Brief is due by August 15,  
12 2011.<sup>1</sup>

13 3. I have been unable to prepare the Opposition to Petitioner's  
14 Supplemental Brief for the following reasons. When I received Petitioner's  
15 Supplemental Brief, I was preparing for a competency hearing in a habeas corpus  
16 case in federal court in *Davis v. Malfi*, CV 06-4744-AHM (MLG), which took place  
17 on July 21, 2011. Since the competency hearing, I have been working on other  
18 pressing matters and/or matters in which I have already requested extensions of  
19 time. Specifically, I completed supplemental *Pinholster* briefing in another capital  
20 case in federal court, *Scott v. Martel* (CV 03-00978-ODW). I also completed a  
21 return to a federal habeas corpus petition in *Tran v. Virga* (CV 10-10033 DSF  
22 (FFM)), a respondent's brief in the California Court of Appeal in *People v. Sanders*

23 <sup>1</sup> This Court's Order of June 13, 2011, granting Petitioner's Application for  
24 an Enlargement of Time to File his Supplemental Brief did not contain a due date  
25 for Respondent's Opposition. However, this Court's Order of April 6, 2011,  
26 requiring supplemental *Pinholster* briefing, had a due date for Respondent's  
27 Opposition that was twenty-eight days after Petitioner's Supplemental Brief was  
28 due. Therefore, Respondent presumes that his Opposition is currently due on  
August 15, 2011, which is twenty-eight days after Petitioner's Supplemental Brief  
was filed. In the Order of April 6, 2011, Petitioner's Reply in support of his  
Supplemental Brief was due on a date that was fourteen days after Respondent's  
Opposition was due.

1 (B220328), and supplemental briefing in the California Court of Appeal in *People*  
2 *v. Rosas* (B223322). At the current time, I am preparing a return to a federal habeas  
3 corpus petition in *Conklin v. Neotti* (CV 11-4297 R (FMO)).

4 4. I anticipate beginning work on the Opposition to Petitioner's  
5 Supplemental Brief within the next week.

6 5. For the above reasons, Respondent respectfully requests a thirty-day  
7 enlargement of time to file the Opposition to Petitioner's Supplemental Brief.

8 6. On August 9, 2011, I spoke to counsel for Petitioner, Cliona Plunkett.  
9 Ms. Plunkett informed me that she had no objection to this Application for  
10 Enlargement of Time.

11 Dated this 11th day of August, 2011, at Los Angeles, California.

12 /s/ Herbert S. Tetef\_\_\_\_\_

13 HERBERT S. TETEF  
14 Deputy Attorney General

## CERTIFICATE OF SERVICE

Case Name: **Ernest Dewayne Jones v.  
Michael Martel, Acting Warden  
of California State Prison at San  
Quentin (DEATH PENALTY  
CASE)**

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No. **CV 09-2158-CJC**

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I hereby certify that on August 11, 2011, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**UNOPPOSED APPLICATION FOR ENLARGEMENT OF TIME TO FILE  
OPPOSITION TO PETITIONER'S SUPPLEMENTAL BRIEF ON THE  
EFFECT OF CULLEN v. PINHOLSTER**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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 August 11, 2011, at Los Angeles, California.

Linda Greenfield  
Declarant

*Linda Greenfield*  
Signature