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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
KEVIN CHAPPELL, Warden,
 19 **California State Prison at San**
Quentin,
 20
 Respondent.

CV-09-2158-CJC
**UNOPPOSED APPLICATION FOR
 ENLARGEMENT OF TIME TO
 FILE OPPOSITION TO
 PETITIONER’S OPENING 2254(D)
 BRIEF ON EVIDENTIARY
 HEARING CLAIMS;
 DECLARATION OF HERBERT S.
 TETEF**
CAPITAL CASE
 The Honorable Cormac J. Carney
 U.S. District Judge

24 Respondent respectfully moves for an enlargement of time to and including
 25 May 9, 2013, in which to file an Opposition to Petitioner’s Opening 2254(D) Brief

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1 on Evidentiary Hearing Claims (“Opening Brief”). This Application is unopposed
2 and is based on good cause as set forth in the attached Declaration.

3 Dated: March 1, 2013

Respectfully submitted,

4 KAMALA D. HARRIS
Attorney General of California
5 DANE R. GILLETTE
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6 LANCE E. WINTERS
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7 XIOMARA COSTELLO
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9
10 /s/ Herbert S. Tetef
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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 represent
6 the Respondent in the instant case of *Ernest Dewayne Jones v. Kevin Chappell,*
7 *Warden, California State Prison at San Quentin*, case number CV 09-2158 CJC.

8 2. Pursuant to this Court's Order re: Schedule For Merits Briefing Under 28
9 U.S.C. § 2254(d)(1) and 2254(d)(2), filed on April 16, 2012, Respondent's
10 Opposition is due ninety days after Petitioner's Opening Brief. Petitioner filed his
11 Opening Brief on December 10, 2012. Therefore, Respondent's Opposition is due
12 March 10, 2013.

13 3. Respondent is requesting a sixty-day enlargement of time to file his
14 Opposition, up to an including May 9, 2013.

15 4. Petitioner's Opening Brief was originally due on September 10, 2012,
16 approximately five months after this Court's Order for merits briefing. On
17 September 4, 2012, Petitioner requested a 180-day extension of time to file his
18 Opening Brief. Respondent opposed the 180-day extension request. On September
19 6, 2012, this Court granted Petitioner an extension of time until December 10, 2012
20 (approximately 90 days) in which to file his Opening Brief.

21 5. Pursuant to the Joint Stipulation of the Parties filed on April 12, 2012,
22 and this Court's Order of April 16, 2012, the parties' merits briefing is to address
23 whether the thirty claims in the Petition satisfy 28 U.S.C. section 2254(d)(1) and/or
24 (d)(2). Although Petitioner's Opening Brief does not address all thirty claims, in
25 violation of the parties' Joint Stipulation and this Court's Order of April 16, 2012,
26 Respondent intends to address all thirty claims in its merits briefing.

27 6. I have been unable to begin working on the Opposition since Petitioner
28 filed his Opening Brief on December 10, 2012, because of other cases that have

1 required my attention. I needed to give these cases priority over the instant case
2 because they were assigned to me prior to the filing of Petitioner's Opening Brief
3 and/or because further extensions of time were not appropriate. These cases
4 include the following. Since Petitioner filed his Opening Brief, I completed and
5 filed an appellant's opening brief in a capital case in the Ninth Circuit Court of
6 Appeals in *Scott v. Chappell* (12-56799). I also prepared briefing in several habeas
7 corpus cases in the United States District Court, including briefing on a motion to
8 amend a petition in *Williams v. Allison* (CV 12-5337 CJC (JCG)), briefing on the
9 timeliness of a petition in *Davis v. Malfi* (CV 06-4744-AHM (MLG)), and an
10 answer to a petition in *Plascencia v. Uribe* (CV 12-8102-MMM (PJW)). In
11 addition, I drafted and filed respondent's briefs in the California Court of Appeal in
12 the following cases: *People v. Deville* (B238053); *People v. Aguayo, et al.*
13 (B236827); *People v. Nava* (B238947); and *People v. Johnson* (B240837). I also
14 prepared and filed a letter brief in the California Court of Appeal in *People v.*
15 *Thomas* (B234814). Further, I presented oral argument in the California Court of
16 Appeal in the following cases: *People v. Rodezno, et al.* (B234852); *People v.*
17 *Harris* (B232568); *In re Keven B.* (B229800); and *People v. Brown* (B235561). I
18 also was out of the office for several mandatory furlough days. In addition, for the
19 last several weeks, I have been preparing a respondent's brief in the California
20 Court of Appeal in *People v. Smith, et al.* (B235380), a two-defendant, large record,
21 nine-issue case that is already on a fourth extension.

22 7. When I complete the respondent's brief in *Smith*, I must prepare the
23 respondent's brief in the California Court of Appeal in *People v. Diaz* (B239373), a
24 case in which the court has indicated that no further extensions will be granted. I
25 must also prepare briefing in two habeas corpus cases in the United States District
26 Court that were assigned to me in early December 2012. I will then begin working
27 on the Opposition in the instant case and will be able to dedicate a block of time to
28 the Opposition so that I can work almost exclusively on it.

