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11	IN THE UNITED STATES DISTRICT COURT		
12	FOR THE CENTRAL DISTRICT OF CALIFORNIA		
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14			
15	ERNEST DEWAYNE JONES, CV-09-2158-CJC		
16	Petitioner, UNOPPOSED APPLICATION FOR LEAVE TO FILE OPPOSITION		
17	v. TO PETITIONER'S OPENING 2254(D) BRIEF ON EVIDENTIARY		
18	HEARING CLAIMS IN EXCESS		
19	KEVIN CHAPPELL, Warden, California State Prison at San Quentin, OF 100 PAGES; DECLARATION OF HERBERT S. TETEF		
20	Respondent. CAPITAL CASE		
21	The Honorable Cormac J. Carney U.S. District Judge		
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23			
24	Respondent Kevin Chappell, the Warden of the California State Prison at San		
25	Quentin, California, respectfully requests leave to file his Opposition to Petitioner's		
26	Opening 2254(d) Brief on Evidentiary Hearing Claims in excess of 100 pages.		
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1	This Application is unopposed and is supported by good cause as set out in the		
2	attached declaration of Herbert S. Tetef	• •	
3	Dated: June 14, 2013	Respectfully submitted,	
4		KAMALA D. HARRIS	
5		Attorney General of California DANE R. GILLETE Chief Assistant Attorney General	
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9		/s/ Herbert S. Tetef	
10		Herbert S. Tetef Deputy Attorney General Attorneys for Respondent	
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DECLARATION OF HERBERT S. TETEF

- I, HERBERT S. TETEF, hereby declare under penalty of perjury under the laws of the United States of America that the following is true and correct:
- 1. I am a Deputy Attorney General of the State of California and represent Respondent Kevin Chappell in the instant case of *Ernest Dewayne Jones v. Kevin Chappell, Warden, California State Prison at San Quentin*, case number CV 09-2158 CJC.
- 2. Respondent's Opposition to Petitioner's Opening 2254(d) Brief on Evidentiary Hearing Claims is currently due on June 24, 2013.
- 3. Pursuant to this Court's Order of September 6, 2012, Respondent's Opposition is to be limited to 100 pages.
- 4. Respondent's Opposition addresses the application of 28 U.S.C. § 2254(d) to each of the thirty claims in the Petition. The Opposition also presents arguments that claims are procedurally barred and barred under *Teague v. Lane*, 489 U.S. 288, 310, 109 S. Ct. 1060, 103 L. Ed. 2d 334 (1989).
- 5. Petitioner's thirty claims are presented in a 432-page Petition that relies upon nearly 3,500 pages of exhibits presented in state court. Many of the thirty claims contain numerous sub-claims.
- 6. While drafting the Opposition, I have remained cognizant of the Court's order concerning the page limitation and have attempted to draft as concise a pleading as possible. For example, I did not include a separate statement of the facts of the crime in the Opposition since a statement of the facts is contained in Respondent's Answer. I also significantly limited my discussion of the standard of review for evaluating claims under 28 U.S.C. § 2254(d). In addition, where possible, I limited my discussion of the general case law that is applicable to some of the claims. However, in order to clearly and adequately address the application of 28 U.S.C. § 2254(d) to each of the thirty claims, and to present the arguments

1 that certain claims are barred, Respondent's Opposition must exceed 100 pages. 2 However, it need not exceed 170 pages. Respondent notes that although this Court's Order of September 6, 2012, 3 4 also limited Petitioner's Opening Brief to 100 pages, Petitioner was granted leave to file his Opening Brief in excess of 100 pages, not to exceed 150 pages. Further, 5 even though Petitioner's Opening Brief was 146 pages, it only addressed the 6 7 application of 28 U.S.C. § 2254(d) to ten of the thirty claims. Respondent will 8 address all thirty claims in no more than 170 pages. 9 8. Accordingly, Respondent respectfully requests leave to file his Opposition to Petitioner's Opening 2254(d) Brief on Evidentiary Hearing Claims in 10 11 excess of 100 pages. 12 On June 11, 2013, I spoke to Petitioner's counsel Cliona Plunkett over 9. 13 the telephone. Ms. Plunkett informed me that she has no objection to this 14 Application. 15 Dated this 14th day of June, 2013, at Los Angeles, California. 16 /s/ Herbert S. Tetef HERBERT S. TETEF 17 Deputy Attorney General 18 19 20 21 22 23 24 25 26 27 28