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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 CHRISTOPHER GEIER,
12 Petitioner,

13 v.

14 MICHAEL MARTEL, Warden of
15 California State Prison at San
16 Quentin,

16 Respondent.

CASE NO. CV 10-4676 R

DEATH PENALTY CASE

PROTECTIVE ORDER

[Docket No. 57]

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18 Pursuant to *Bittaker v. Woodford*, 331 F.3d 715 (9th Cir. 2003), the Court
19 enters the following Protective Order:

20 1. To the extent that the Court will order the production of documents
21 and discovery in this matter that Petitioner contends are subject to claims of
22 privilege or protected from disclosure by the attorney work product doctrine, and
23 to the extent that the Court will order Petitioner's trial counsel's file, including the
24 files of other defense team members, to be produced to the Respondent (or
25 Petitioner turns over such documents voluntarily by filing any part of the material
26 as supporting evidence in this action), such materials disclosing attorney-client
27 communications or work product shall be subject to this Protective Order and shall
28 remain confidential and, if filed with the Court, sealed. Further, to the extent that

1 the Court will order the taking of the depositions of trial counsel, other members
2 of the defense team, Petitioner, if such deposition is granted, and Petitioner's
3 experts, such testimony disclosing attorney-client communications or work
4 product shall be subject to this Protective Order and shall remain confidential and,
5 if filed with the Court, sealed. The appropriateness of any measures to prevent the
6 disclosure of the contents of materials subject to this Protective Order in
7 connection with presenting evidence at any evidentiary hearing in this case will be
8 separately addressed by the Court in connection with conducting any such hearing.

9 2. All privileged documents and testimony produced to Respondent in
10 this action may be used only for purposes of litigating this habeas corpus
11 proceeding by: a) Petitioner and the members of the legal team, i.e., lawyers,
12 paralegals, investigators, and support staff, assigned to *Geier v. Cullen* by the
13 Office of the Federal Public Defender and Lynne Coffin, and persons retained by
14 Petitioner's counsel to litigate this matter, including, but not limited to, outside
15 investigators, consultants and expert witnesses; and (b) Respondent and the
16 members of the legal team, i.e., lawyers, paralegals, investigators, and support
17 staff, assigned to *Geier v. Cullen* by the California Department of Justice, Attorney
18 General's Office, and persons retained by Respondent's counsel to litigate this
19 matter, including, but not limited to, outside investigators, consultants and expert
20 witnesses. This Protective Order extends to members of the legal teams and all
21 persons retained by the parties to litigate this matter. All such individuals shall be
22 provided with a copy of this Protective Order.

23 3. Except for disclosure to the persons and agencies described in
24 Paragraph 2, disclosure of the contents of the documents and testimony and the
25 documents and testimony themselves shall not be made to any other persons or
26 agencies, including, but not limited to, prosecutorial agencies and law enforcement
27 personnel, without the Court's order. If Respondent contends that he needs to
28 disclose Petitioner's privileged material to outside prosecutorial agencies, outside

1 law enforcement personnel, experts, consultants, deponents, or witnesses in order
2 to investigate or respond to Petitioner's habeas claims, Respondent shall provide to
3 Petitioner's counsel (a) the identity of the individual[s] to whom access is going to
4 be provided, and (b) Respondent's reasons therefor. Petitioner shall notify
5 Respondent within three court days of his non-opposition or objection to
6 Respondent's proposal. If Petitioner objects to Respondent's proposal, and if the
7 parties cannot resolve their differences within three additional court days,
8 Petitioner shall provide his written objection to Respondent within three further
9 court days. Respondent shall file and serve a document containing Petitioner's
10 objections and Respondent's responses within three additional court days. The
11 Court shall rule on Petitioner's objections before the privileged materials are
12 disclosed. Any person obtaining access to the privileged material pursuant to this
13 process shall also be given a copy of this Protective Order and shall sign a
14 statement agreeing to be bound by the terms of this Protective Order.

15 4. Documents and testimony that Petitioner contends are privileged shall
16 be clearly designated as such by labeling the documents or testimony in a manner
17 that does not prevent reading the text of the document.

18 5. All documents and testimony designated as privileged by Petitioner
19 that are submitted to this Court shall be submitted under seal in a manner
20 reflecting their confidential nature and designed to ensure that the privileged
21 material will not become part of the public record. Any pleading, deposition
22 transcript, discovery response or request, or other papers served on opposing
23 counsel or filed or lodged with the Court that contains or reveals the substantive
24 content of the privileged matter shall be filed under seal, and shall include a
25 separate caption page that includes the following confidentiality notice or its
26 equivalent:

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1 TO BE FILED UNDER SEAL

2 THIS PLEADING OR DOCUMENT CONTAINS CONFIDENTIAL
3 INFORMATION SUBJECT TO A PROTECTIVE ORDER AND IS NOT
4 TO BE OPENED NOR ITS CONTENTS DISPLAYED OR DISCLOSED

5 6. If privileged documents or documents containing privileged matters
6 are filed with the Court, they shall be filed with the Clerk of the Court in sealed
7 envelopes prominently marked with the caption of the case and the foregoing
8 Confidentiality Notice. The Clerk of the Court is directed to maintain the
9 confidentiality of any documents filed in accordance with the above. Insofar as
10 reasonably feasible, only confidential portions of the filings shall be under seal;
11 and the parties shall tailor their documents to limit, as much as is practicable, the
12 quantity of material that is to be filed under seal. When a pleading or document
13 contains only a limited amount of privileged content, a party may file a complete
14 copy under seal and at the same time file on the public record an additional,
15 redacted version of the document, blocking out the limited matter comprising the
16 confidential portions.

17 7. Petitioner's disclosure of documents from trial counsel's file in this
18 action, and any related testimony by Petitioner or members of Petitioner's trial
19 team at a deposition in this case, do not constitute a waiver of Petitioner's rights
20 under the Fifth and Sixth Amendments to the United States Constitution in the
21 event of any retrial.

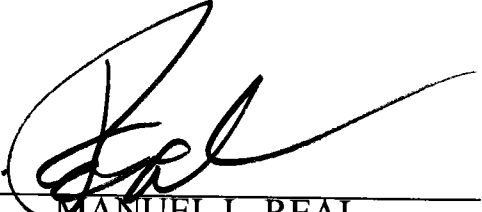
22 8. This order shall continue in effect after the conclusion of the habeas
23 corpus proceedings and specifically shall apply in the event of a retrial of all or
24 any portion of Petitioner's criminal case. Any modification or vacation of this
25 order shall only be made upon notice to and an opportunity to be heard from both
26 parties.

27 9. Petitioner's unredacted Petition for Writ of Habeas Corpus shall be
28 filed under seal.

1 10. Unredacted versions of Exhibits 117, 124, 126, 144, 147, 149, 150,
2 152, 195, and 211 shall be filed under seal.

3 IT IS SO ORDERED.

4 Dated: August 24, 2011.

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7 MANUEL L. REAL
8 United States District Judge
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