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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

JAE YUNG KIM,

Petitioner,

v.

A.M. GONZALES, Warden.

Respondent.

**NO. CV 14-89- R (AFM)**

**~~[PROPOSED]~~ PROTECTIVE ORDER**

Pursuant to this Court's order on August 12, 2015, the parties hereby submit the following joint proposed order:

The Court hereby enters a Protective Order regarding the following: (1) the declaration of Ellen Turlington, filed under seal in this matter as Exhibit 4 to Petitioner's Supplemental Opposition to Respondent's Motion to Dismiss Petition for Writ of Habeas Corpus ("Supplemental Opposition"); (2) the declaration of habeas counsel, David P. Elder, filed under seal in this matter as Exhibit 5 to Petitioner's Supplemental Opposition; (3) the declaration of Alane Mabaquiao, filed under seal in this matter as Exhibit 6 to Petitioner's Supplemental Opposition; and (4) a billing invoice of habeas counsel, David P. Elder, filed under seal in this matter as Exhibit 7 to Petitioner's Supplemental Opposition. This Protective Order will extend to any

1 reference to the sealed materials in the parties' pleadings submitted to the Court.<sup>1</sup>  
2 Nothing in this Protective Order prevents Petitioner from seeking to expand this  
3 Protective Order, or Respondent from opposing any motion seeking to expand this  
4 Protective Order, in the event that further briefing or an evidentiary hearing requires the  
5 disclosure of additional protected materials.

6 1. On July 9, 2015, Petitioner Jae Yung Kim filed his Supplemental  
7 Opposition. In the Supplemental Opposition, Kim included facts and statements from  
8 his habeas counsel related to Kim's representation that Kim claims are protected by  
9 attorney client privilege and the work product doctrine.<sup>2</sup>

10 2. The protected materials disclosed in this action may be used only for  
11 purposes of litigating this habeas corpus proceedings by: a) Petitioner and the members  
12 of his legal team, i.e., lawyers, paralegals, investigators, and support staff, assigned to  
13 this action by the Office of the Federal Public Defender, 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 members  
16 of the legal team, i.e., lawyers, paralegals, investigators, and support staff, assigned to  
17 this action by the California Department of Justice, Attorney General's Office, and  
18 persons retained by Respondent's counsel to litigate this matter, including, but not  
19 limited to, outside investigators, consultants, and expert witnesses. This Protective  
20 Order extends to members of the legal team and all persons retained by the Parties to  
21 litigate this matter. All such individuals shall be provided with a copy of this Protective  
22 Order.

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24 <sup>1</sup> Exhibits 5, 6, and 7, which were filed under seal and sealed portions of Exhibit  
25 4, which are the subject of the Protective Order will be referenced as "protected  
26 materials."

27 <sup>2</sup> The Respondent does not agree that the protected materials contain work  
28 product.



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

4 7. Petitioner's disclosure of protected materials in this case does not  
5 constitute a waiver of Petitioner's rights under the Fifth and Sixth Amendments to the  
6 United States Constitution in event of any retrial.

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

11 IT IS SO ORDERED.

12  
13 Dated: September 10, 2015



14 HON. ALEXANDER F. MACKINNON  
15 United States Magistrate Judge

16 Presented by:

17 /s/ Jelani J. Lindsey  
18 JELANI J. LINDSEY  
19 Deputy Federal Public Defender

20 /s/ Esther P. Kim  
21 ESTHER P. KIM  
22 Deputy Attorney General