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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RONALD L. SANDERS,	)	Case No. 1:92-cv-05471-LJO
	)	
Petitioner,	)	
	)	<u>DEATH PENALTY CASE</u>
vs.	)	
	)	
ROBERT WONG, Acting Warden	)	Order Granting Petitioner's
of San Quentin State Prison,	)	Supplemental Motion to Expand
	)	the Record (Doc. 318)
Respondent.	)	

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Petitioner Ronald L. Sanders ("Sanders") filed a motion to expand the record April 10, 2009, concurrently with his post-evidentiary hearing brief. Respondent Robert Wong ("the Warden") filed an opposition to the motion to expand the record April 24, 2009.

Sanders moved to expand the record at the start of the evidentiary hearing with various documents relevant to the hearing. Some of the documents were fully admitted into the record, such as the declarations admitted as direct testimony for the hearing where the witness was available for cross-examination.

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\* Robert Wong is substituted for his predecessor as Warden of San Quentin State Prison, pursuant to Federal Rule of Civil Procedure 25(d).

1 Other documents were admitted as part of the historical record in the case and  
2 assumed true for the purposes of this phase of the evidentiary hearing, other  
3 documents were received but not offered for the truth of the matter asserted as  
4 part of the basis for an expert's opinion, and other documents submitted as  
5 reliable, with sufficient indicia to support admission for the hearing, such as  
6 public records. Since Sanders was not offering certain witness declarations not  
7 subject to cross-examination, for the truth of the matter asserted but merely as a  
8 basis for the experts' opinion, the Warden did not object to the expansion of the  
9 record. The motion was granted during the hearing and an order reflecting that  
10 ruling was issued December 2, 2008.

11 Sanders seeks to supplement the record with additional documents that  
12 were inadvertently omitted from the motion granted at the evidentiary hearing.  
13 Specifically, Sanders seeks expansion of the record with the August 17, 2007,  
14 deposition transcript of Ima Salie, the October 19, 1994 declaration of Robert  
15 Cook, Esq., the October 10, 1994 declaration of Arlene Fangmeyer, and the death  
16 certificates of Arlene Fangmeyer, Marian Ann Beadle (aka Marian Sanders), and  
17 Dr. Francis A. Matychowiak. Sanders indicates the deposition transcript and the  
18 declarations should be designated as historical documents which are presumed  
19 true for this phase of the evidentiary hearing, and the death certificates  
20 designated as reliable, as they are public records with sufficient indicia of  
21 reliability for these proceedings.

22 The Warden objects to expansion of the record with any belated  
23 declaration not subject to cross-examination as hearsay, and requests that if they  
24 are admitted, it be with the understanding they are not admitted for the truth of  
25 the matter asserted but only as a basis for an expert opinion. Further, if they are  
26 admitted, the Warden reserves the right to object to their admission at phase two

1 of the evidentiary hearing. The Warden does not object to the admission of Ima  
2 Salie's deposition transcript, to the extent that it is relied on by Sanders' experts.  
3 The Warden objects to the admission of the death certificate of Marian Beadle, as  
4 Sanders failed to lay any foundation showing Marian Beadle is Marian Sanders.  
5 The Warden does not object to the admission of certified death certificates for  
6 Arlene Fangmeyer and Dr. Matychowiak, to the extent they are referenced by  
7 expert Julie Kriegler.

8 Sanders' supplemental motion to expand the record is GRANTED under  
9 the same restrictions as imposed on the prior motion. The deposition transcript  
10 is fully admitted, the declarations are received as part of the basis for an expert's  
11 opinion but not offered for the truth of the matter asserted, and the public  
12 records have sufficient indicia of reliability for these proceedings. Comparison of  
13 the proffered death certificate of Marian Ann Beadle with the Marriage License  
14 for Ronald Lee Sanders and Marian Ann Robertson (Sanders' Exhibit 112) shows  
15 enough similarity between Marian Beadle and Marian Robertson Sanders (same  
16 first and middle names, same month and day of birth, son's last name listed as  
17 Robertson) for admission of the death certificate.

18  
19 IT IS SO ORDERED.

20  
21 DATED: July 17, 2009

22 /s/ Lawrence J. O'Neill  
23 United States District Judge  
24  
25  
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