(HC) (DP) Berryma	an v. Wong I	Doc. 396
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6	IN THE UNITED STATES DISTRICT COURT FOR THE	
7	EASTERN DISTRICT OF CALIFORNIA	
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9	RODNEY BERRYMAN, Sr.,) Case No. 1:95-cv-05309-AWI
10	Petitioner,) <u>DEATH PENALTY CASE</u>
11	VS.)) ODDED FOLLOWING CONFIDENTIAL
12	ROBERT WONG, as Acting Warden of	ORDER FOLLOWING CONFIDENTIAL STATUS CONFERENCE
13	San Quentin State Prison,	HEARING DATE: December 17, 2008
14	Respondent) TIME: 11:00 a.m.
15	On several occasions during the course of the litigation of this case, Petitioner Rodney Berryman,	
16	Sr. ("Berryman"), has submitted pro se filings, filed and maintained under seal, seeking to have court-	
17	appointed counsel relieved on the basis of alleged irreconcilable disagreements over the conduct of the	
18	litigation. Following a resurgence of correspondence from Berryman, the Court appointed Assistant	
19	Federal Defender Joseph Schlesinger as independent counsel, to examine the disagreement and to advise	
20	the Court as necessary.	
21	In ex parte proceedings conducted on December 17, 2008, Mr. Schlesinger requested authority	
22	under Rule 6 of the Rules Governing Section 2254 Cases in the United States District Courts, to issue	
23	a subpoena duces tecum for reports, evidence, and other materials in the possession of the Kern County	
24	Sheriff-Coroner. The request is supported by an adequate showing of need to examine such materials	
25	in furtherance of the court-ordered inquiry. The Court granted the request for authorization under Rule	
26	6 during the proceedings conducted on December 17, 2008, and hereby confirms that authorization,	
27	entering this public order for the benefit of Respondent Robert Wong, as Acting Warden of San Quentin	
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State Prison (the "Warden:) as well as the Kern County Sheriff-Coroner to clarify Mr. Schlesinger's role and authority. The Court does not anticipate that Mr. Schlesinger's activities will impact the schedule for the continued litigation of Claim 19, and orders the depositions of David Armendariz and George Peterson to proceed as scheduled. Mr. Schlesinger will file a confidential status report to apprise the Court of his progress in examining the potential conflict between Berryman and appointed counsel within the time agreed upon at the December 17, 2008 hearing. The Court has determined that no further notice to the Warden is necessary or appropriate at this time. In the event future potential actions necessitate notice to the Warden and opportunity to be heard, the Court will provide such notice and opportunity. IT IS SO ORDERED. DATE: January 6, 2009 /s/ Anthony W. Ishii Anthony W. Ishii United States District Judge

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