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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN LEE HOLT,

 Petitioner,

 v.

KEVIN CHAPPELL, Warden Of San Quentin
State Prison,

 Respondent.

Case No. 1:97-cv-06210-AWI-SAB

DEATH PENALTY CASE

ORDER UPON STIPULATION REGARDING
PETITIONERS MEDICAL AND
PYSCHIATRIC RECORDS

Before the Court is the stipulation of Petitioner’s counsel, Robert M. Myers and Assistant Federal Defender Jennifer Mann, and Respondent’s counsel, Deputy Attorneys General Sean M. McCoy and Peter W. Thompson, to an order directing Respondent Warden of San Quentin State Prison to provide copies of Petitioner’s medical and psychiatric records, dated March 1, 2014 to the present, to Petitioner’s counsel, who shall then provide copies to Respondent’s counsel subject to in camera review of any documents withheld pursuant to privilege log.

A district court has discretion to grant and limit discovery under the Federal Rules of Civil Procedure in federal habeas corpus proceedings. Rule 6 of the Rules Governing 28 U.S.C. § 2254 Cases; Bracy v. Gramley, 520 U.S. 899, 903-05 (1997); Rich v. Calderon, 187 F.3d 1064, 1068 (9th Cir. 1999) (discovery by habeas petitioner is available in the court’s discretion for

1 good cause shown). This includes discretion to order the department of corrections to turn over
2 medical records to counsel. See Horne v. Tennis, 2014 WL 6656233, at *3 n.2 (E.D. Pa.
3 November 24, 2014).

4 Counsel may be entitled to access prison health records of a habeas petitioner.
5 Petitioner’s appointed counsel are directed to represent him in every stage of the judicial
6 proceeding, 18 U.S.C. § 3599(e), without regard to petitioner’s competence to authorize
7 counsel’s decisions. Ryan v. Gonzales, 133 S.Ct. 696, 702 (2013). Proceedings are not stayed
8 when habeas petitioners are found incompetent. Id. “Attorneys are quite capable of reviewing
9 the state-court record, identifying legal errors, and marshaling relevant arguments, even without
10 their clients' assistance.” Id., at 705.

11 California’s prison regulations and procedures are in accord. Petitioner’s counsel, and
12 counsel for the attorney general may access prison health and psychiatric records. See Cal. Code
13 Regs. tit. 15 § 3370; California Department of Corrections and Rehabilitation Adult Institutions,
14 Programs, and Parole – Operations Manual (Revised January 1, 2015), §§ 91070.8.1, 91070.8.3,
15 91070.8.5, 91070.8.8. Especially so here, as competency claims are included in the petition and
16 the evidentiary hearing set for March 14, 2016. Review of Petitioner’s medical and psychiatric
17 records, limited to counsel in this action and their designated representatives, could reasonably
18 assist at the evidentiary hearing and related settlement discussions.

19 Accordingly, for good cause shown, it is HEREBY ORDERED that:

- 20 1. Respondent Warden is directed to provide to Petitioner’s counsel, Assistant
21 Federal Defender Jennifer Mann, within 45 days of the filed date of this order,
22 copies of medical and psychiatric records dated March 1, 2014 to the present for
23 Petitioner, John Lee Holt, CDC # E-58200.
- 24 2. Petitioner’s counsel, Ms. Mann, within 30 days of receipt of the records, is
25 directed to provide Respondent’s counsel with copies thereof, provided that if
26 there are any records that Petitioner’s counsel withholds, Petitioner’s counsel will
27 submit copies of those records to the Court under seal with a privilege log, a copy
28 of which Petitioner’s counsel also will provide to Respondent’s counsel.

1 3. The records covered by this order shall be provided only to counsel for the parties
2 and their designated representatives and solely for purposes incident to this
3 proceeding. Not later than 30 days following the conclusion of this action, all
4 copies of records provided hereunder shall be returned to the Warden, or their
5 destruction certified in a writing served on the Warden, unless otherwise ordered
6 by the Court.

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9 IT IS SO ORDERED.

10 Dated: March 24, 2015



UNITED STATES MAGISTRATE JUDGE