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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN LEE HOLT,

 Petitioner,

 v.

RON DAVIS, Warden Of San Quentin State
Prison,

 Respondent.¹

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

DEATH PENALTY CASE

ORDER UPON STIPULATION REGARDING
TESTIMONY OF GEORGE PETERSON

(Doc. No. 267)

Before the court is the stipulation of petitioner’s counsel, attorney Robert M. Myers and Assistant Federal Defender Jennifer Mann, and respondent’s counsel, Deputy Attorneys General Sean M. McCoy and Peter W. Thompson, filed June 14, 2017, to an order directing the admission of the June 19, 1995 declaration of associate defense counsel George Peterson, (*see* State Habeas Corpus Petition, Ex. 30 thereto) in lieu of live or deposition testimony at the evidentiary hearing scheduled for October 24, 2017.

The parties represent that they do not intend to call Mr. Peterson to testify at the hearing because he is eighty-six years old and in poor health due to heart problems and would testify consistently with his declaration. The parties further represent that Mr. Peterson’s declaration will be his only testimony offered in this action.

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¹ Pursuant to Fed. R. Civ. P. 25(d), Ron Davis, Warden of San Quentin State Prison, is substituted as respondent in place of his predecessor wardens.


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Based on the parties' stipulated representations, the court finds good cause to grant the request. *See* 28 U.S.C. § 2246 ("On application for a writ of habeas corpus, evidence may be taken orally or by deposition, or, in the discretion of the judge, by affidavit...."); *Phillips v. Smith*, 300 F. Supp. 130, 134 (S.D. Ga. 1969) (use of affidavits in habeas corpus applications is within the sound discretion of the district judge).

Accordingly, the declaration of George Peterson, signed June 19, 1995, shall be admitted in lieu of live or deposition testimony at the evidentiary hearing in this action.

IT IS SO ORDERED.

Dated: June 16, 2017



UNITED STATES DISTRICT JUDGE