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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JASON MARTINEZ VARGAS,)	1:03-cv-6622-OWW-SMS-HC
)	
Petitioner,)	ORDER AFTER TELEPHONIC STATUS
)	CONFERENCE
)	
v.)	ORDER SETTING EVIDENTIARY HEARING
)	Date: September 9, 2010
CHERYL PLILER,)	Time: 1:00 p.m.
)	Place: Courtroom 7
Respondent.)	
)	ORDER SETTING OTHER DEADLINES
)	

Petitioner is a state prisoner proceeding with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter has been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rules 302 and 303.

On April 20, 2010, at 10:00 a.m, a telephonic status conference was held in which Carolyn D. Phillips participated on behalf of Petitioner, and Paul Edward O'Connor of the office of the Attorney General of the state of California participated on behalf of Respondent.

The parties discussed the scope of the issue remanded by the Ninth Circuit Court of Appeals for an evidentiary hearing and

1 agreed that it included the claim that Petitioner's trial counsel
2 slept through critical stages of the trial and suffered fatigue
3 during argument.

4 Counsel agreed that one-half day was sufficient for the
5 hearing, at which counsel anticipated examining no more than
6 several witnesses, including Petitioner, who is housed at
7 Corcoran; the defense attorney, George Wright Quick; the trial
8 judge, the Honorable Clarence Westra; and Jared Hamilton, the
9 prosecutor, whose testimony might become the subject of a
10 stipulation or declaration.

11 Counsel agreed that argument and briefing should occur after
12 the hearing, at which time a schedule shall be set for receipt of
13 the transcript and the filing of briefing.

14 The Court confirmed that telephonic appearances would be
15 sufficient for the hearing of any motions that might be filed
16 before the evidentiary hearing.

17 Accordingly, it IS ORDERED that

18 1) The evidentiary hearing in this matter IS SET for
19 September 9, 2010, at 1:00 p.m., before the undersigned
20 Magistrate Judge in Courtroom 7; and

21 2) Counsel SHALL NOTIFY the Court in writing no later than
22 **August 1, 2010**, of any witnesses other than Petitioner for whom
23 writs will be necessary in order to procure their attendance at
24 the hearing;

25 3) If there are any issues concerning evidence or the
26 hearing which counsel are unable to resolve, then such issues
27 SHALL BE PRESENTED to the Court BY MOTION served, filed, and
28 briefed in sufficient time in order to be heard no later than on

1 the law and motion calendar of the undersigned Magistrate Judge
2 on Friday, **August 6, 2010, at 9:30 a.m.**; and,

3 4) The status conference previously set for April 29, 2010
4 at 10:00 a.m., as well as the April 23, 2010, deadline for filing
5 a status report, is VACATED (Doc. 73).

6

7 IT IS SO ORDERED.

8 **Dated:** April 21, 2010

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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