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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 RICHARD JOHN VIEIRA,

12 Petitioner,

13 v.

14 KEVIN CHAPPELL, as Acting Warden of  
San Quentin State Prison,

15 Respondent.  
16

Case No. 1:05-cv-01492-AWI-SAB

ORDER DENYING MOTION FOR  
HEARING

(ECF No. 139)

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18 Petitioner is represented in this action by Wesley A. Van Winkle, Esq., of the Law  
19 Offices of Wesley A. Van Winkle, and Timothy J. Foley, Esq., of the Office of the Federal  
20 Defender. Petitioner’s claims have been briefed by the parties and are currently under  
21 submission. On August 6, 2014, Petitioner filed a motion for a hearing alleging a conflict of  
22 interest with his appointed counsel and District Judge Anthony W. Ishii due to the “excessive  
23 delays” that the State of California has created in all capital cases.

24 Petitioner’s complaint does not raise a lack of communication with his attorneys or  
25 mishandling of the merits of his substantive claims. As petitioner was advised in the order  
26 issued May 25, 2012 by District Judge Anthony W. Ishii, the claims raised are “not a bona fide  
27 conflict of interest. Rather, it is an attempt to present substantive claims to the Court which  
28 Vieira’s attorneys have not raised.” (ECF No. 127 at 5.) Further, “even if this Court believed

1 the California State Court system were flawed, it is without authority to provide a remedy.  
2 Finally, the claim Vieira wishes to pursue is not cognizable on federal habeas corpus.” (Id.)

3 As Petitioner has previously been advised, Local Rule 191 of the Local Rules of the  
4 Eastern District provides that the Court will generally not consider pro se documents about the  
5 presentation of the case where the party is represented by counsel. L.R. 191(d). Petitioner’s  
6 motion does not allege an actual conflict with counsel and for that reason it is denied. Further,  
7 the Ninth Circuit has addressed Petitioner’s argument regarding the Court’s handling of his pro  
8 se filings. (ECF No. 135.) Petitioner’s allegation that the delay in his case is excessive does not  
9 demonstrate a conflict of interest with the Court.

10 Based on the foregoing, IT IS HEREBY ORDERED that Petitioner’s motion for a  
11 hearing is DENIED. Petitioner’s counsel are directed to provide him with a copy of this order.

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13 IT IS SO ORDERED.

14 Dated: August 12, 2014

  
UNITED STATES MAGISTRATE JUDGE