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IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

RICHARD JOHN VIEIRA,  
Petitioner,  
vs.  
Robert K. Wong, as Acting Warden  
of San Quentin State Prison,  
Respondent.

Case No. 1:05-cv-1492-OWW  
DEATH PENALTY CASE  
ORDER FOLLOWING SUPPLEMENTAL  
PHASE II CASE MANAGEMENT  
CONFERENCE  
DATE: July 10, 2009  
TIME: 8:45 a.m.  
COURTROOM 3

This matter came on for a supplemental Phase II Case Management Conference (“CMC”) in the above-entitled Court, the Honorable Oliver W. Wanger presiding. Petitioner Richard John Vieira (“Vieira”) was represented at the conference by Wesley A. Van Winkle. Respondent Robert K. Wong, as Acting Warden of San Quentin State Prison (the “Warden”) was represented by Deputy Attorney General Catherine Chatman. Both parties appeared telephonically.

The occasion for the supplemental Phase II CMC is the June 24, 2009 denial by the California Supreme Court of Vieira’s state habeas corpus petition. While the state petition was pending, federal proceedings were held in abeyance. With the denial of the state petition, federal proceedings resume.

Vieira filed his federal petition on October 29, 2006, two days before the expiration of the one-year statute of limitations under 28 U.S.C. § 2244(d)(1). Ms. Chaptman represented that she could file the Warden’s answer to the petition by November 10, 2009. Thereafter the parties will meet and confer about the exhaustion status of the petition and file a joint statement summarizing their mutual and respective positions on or before December 10, 2009. If the parties dispute exhaustion, the Warden will point out the allegations in the petition claimed to be unexhausted and Vieira will point out the

1 passage(s) in the direct appeal pleadings and the state habeas petition where he contends each challenged  
2 allegation was presented to the California Supreme Court. The Court will then decide the matter. Upon  
3 the resolution of the exhaustion status of the case, the case moves to Phase III, the briefing phase, of the  
4 litigation. At that time, the Court's staff will provide counsel for Vieira with the appropriate Phase III  
5 case management budget forms. After giving counsel sufficient time to plan Phase III and complete the  
6 forms, a Phase III CMC will be scheduled.

7 IT IS SO ORDERED.

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9 Dated: July 10, 2009

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/s/ Oliver W. Wanger  
Oliver W. Wanger  
United States District Judge

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