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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GEORGE SOULIOTES,)	1:06-cv-00667 AWI MJS HC
)	
Petitioner,)	ORDER
)	
v.)	
)	
ANTHONY HEDGPETH, Warden,)	
)	
Respondent.)	

Each party is ORDERED to notify the Court within ten days of the date of filing of this Order whether he requests an evidentiary hearing and the opportunity to present live testimony with regard to Petitioner's claims of ineffective assistance of counsel.¹ Absent such a request the Court shall proceed to rule on the merits of Souliotes' petition based on the facts and evidence already submitted.

IT IS SO ORDERED.

Dated: January 31, 2013

Is. Michael J. Seng
UNITED STATES MAGISTRATE JUDGE

¹ The Supreme Court has held that "review under [28 U.S.C.] § 2254(d)(1) is limited to the record that was before the state court that adjudicated the claim on the merits." See Cullen v. Pinholster, 131 S. Ct. 1388, 1398 (2011). However, if it is determined the state court decision was contrary to or involving an unreasonable application of clearly established federal law, the claim may be reviewed *de novo*, and the Court may consider evidence properly presented for the first time in federal court if otherwise allowed under 28 U.S.C. § 2254(e)(2). Hurles v. Ryan, 2013 U.S. App. LEXIS 1305, 11-12 (9th Cir. Jan. 18, 2013).