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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

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9 JAMES BRADLEY HAAG, 1:07-CV-00856 DLB HC
10 Petitioner, ORDER DENYING PETITIONER'S MOTIONS
11 v. FOR DEFAULT AND/OR CONTEMPT
12 [Docs. 62, 64, 68, 69]
13 JAMES TILTON, Director of Corrections
14 Respondent. /

15 Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus
16 pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(c)(1), the parties have consented to
17 the jurisdiction of the United States Magistrate Judge. This case is ready for review on the
18 merits.

19 Petitioner has filed several motions requesting default judgment and/or sanctions against
20 Respondent. Petitioner faults Respondent for failing to submit a complete copy of the
21 transcripts, including the voir dire and opening statements. In a separate order issued
22 concurrently herewith, the Court has granted Petitioner's request for a complete copy of the
23 transcripts, including the voir dire and opening statements. Accordingly, Petitioner's complaint
24 is now moot.

25 Moreover, entry of default is appropriate as to any party against whom a judgment for
26 affirmative relief is sought that has failed to plead or otherwise defend as provided by the Federal
27 Rules of Civil Procedure and where that fact is made to appear by affidavit or otherwise. See
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1 Fed. R. Civ. P. 55(a). Respondent has filed a timely answer to the petition and default is simply
2 unwarranted.

3 Nor has Petitioner demonstrated a basis for imposition of sanctions against Respondent.
4 Local Rule 11-110 provides that “a failure of counsel or of a party to comply with these Local
5 Rules or with any order of the Court may be grounds for the imposition by the Court of any and
6 all sanctions . . . within the inherent power of the Court.” A finding of “bad faith” is required for
7 imposing sanctions under the inherent power of the court. Fink v. Gomez, 239 F.3d 989, 993 (9th
8 Cir.2001), *citing Barber v. Miller*, 146 F.3d 707 (9th Cir.1998).

9 Here, the Court finds no evidence of bad faith on the part of Respondent. It is clear
10 Respondent has addressed the merits of the petition and has thoroughly responded to all court
11 orders in a timely fashion. Furthermore, the relief Petitioner requests, that the petition be
12 granted, is unavailable as a form of sanction. Petitioner’s motion for sanctions shall be denied.

13 Based on the foregoing, it is HEREBY ORDERED that:

14 1. Petitioner’s motions for default judgment and/or sanctions are DENIED.

15 IT IS SO ORDERED.

16 Dated: September 23, 2009

17 /s/ Dennis L. Beck
18 UNITED STATES MAGISTRATE JUDGE

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