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

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|    |                           |   |                                |
|----|---------------------------|---|--------------------------------|
| 12 | MARK VINCENT TEDESCHI,    | ) | Case No. 1:08-cv-00820 JLS-CAB |
| 13 | Petitioner,               | ) |                                |
| 14 | v.                        | ) | <b>APPLICATION AND ORDER</b>   |
| 15 | UNITED STATES OF AMERICA, | ) | <b>APPOINTING COUNSEL</b>      |
| 16 | Respondent.               | ) |                                |

17 -  
 18 The petitioner, Mark Vincent Tedeschi, through the Federal Defender for the Eastern District of  
 19 California, hereby requests appointment of Gary Huss, CJA attorney as counsel of record.

20 The petitioner was originally represented in Superior Court, Kern County by his public  
 21 defender, David L. Kelly. Mr. Kelly represented the petitioner in Superior Court, the Fifth Appellate  
 22 District for the State of California, the California Supreme Court, and the U.S. District Court for the  
 23 Eastern District, Fresno Division. Through his counsel, the petitioner filed a writ of Habeas Corpus on  
 24 June 12, 2008, in the Eastern District of California.

25 The matter was originally assigned to U.S. District Judge Lawrence O'Neill. It was reassigned  
 26 to visiting U.S. District Judge Janis L. Sammartino on November 25, 2008. On December 9, 2009, an  
 27 order denying 28 U.S.C. § 2254 and granting in part a certificate of appealability was signed by Judge  
 28 Sammartino.

1 This office was contacted by counsel, David L. Kelly, regarding appointment of counsel  
2 thereafter. Mr. Kelly did not understand that petitioner could request appointment of CJA counsel for  
3 his §2254 petition. At one point previous to December 2009, Mr. Kelly contacted the Federal  
4 Defender's Office, but was not advised that counsel could be requested. He proceeded in the district  
5 court, but has spoken with Petitioner about requesting other counsel as he does not practice in federal  
6 court. Petitioner is requesting appointment of counsel. He is indigent and is completing a financial  
7 affidavit and it will be forwarded to this office as soon as possible.

8 Petitioner requests counsel be appointed to complete the appeal to the Ninth Circuit based on the  
9 issues in the Certificate of Appeal granted by U.S. District Judge Janis Sammartino. It is requested that  
10 counsel be appointed now as the Notice of Appeal to the Ninth Circuit is due by January 8, 2010.

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12 Dated: December 30, 2009 /s/ Francine Zepeda  
13 FRANCINE ZEPEDA  
14 Assistant Federal Defender

15 **ORDER**

16 Having satisfied the Court that the defendant is financially unable to retain counsel, the Court  
17 hereby appoints CJA counsel pursuant to 18 U.S.C. § 3006A.

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19 IT IS SO ORDERED.

20 Dated: December 30, 2009 /s/ Dennis L. Beck  
21 UNITED STATES MAGISTRATE JUDGE  
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