

1 co-counsel along with the Federal Defender in these federal proceedings. After reviewing the above-
2 referenced correspondence, the Court declines to appoint Mr. Kauffman due a number potential conflicts
3 which possibly could disrupt the litigation Lawley’s federal habeas claims as the case progresses. The
4 Court adopts the recommendation of the Selection Board, appointing the Capital Habeas Unit of the
5 Federal Defender’s Office and private attorney Wesley A. Van Winkle. Assistant Federal Defender
6 Lissa J. Gardner is designated as the attorney from the Federal Defender’s Office assigned to the case
7 along with Mr. Van Winkle

8 Counsel for the parties (including for Respondent Robert Wong, as Acting Warden of San
9 Quentin State Prison) shall familiarize themselves with the Guide to Case Management and Budgeting
10 in Capital Habeas Cases, Eastern District of California, Fresno Division (hereafter the “Attorney
11 Guide”), most recently updated in December 2008, and posted on the Court’s web-page (under Fresno,
12 “Attorney Info,” “Forms”). Both parties are asked to complete the Confidential Case Evaluation Form
13 (Appendix B to the Attorney Guide). *See* Attorney Guide, ¶ 47. The Court will maintain each
14 Confidential Case Evaluation Form under seal, unless the party filing the Form elects to file it publicly.

15 Mr. Van Winkle and Ms. Gardner are directed to prepare a case management plan and budget
16 for Phase I of the litigation in accordance with the Attorney Guide. The proposed case management plan
17 and budget shall be supported by properly subscribed declarations. *See* Attorney Guide, ¶ 14. Although
18 only Mr. Van Winkle’s services will be budgeted, in order to evaluate the reasonableness of services he
19 proposes to provide, resources to be allocated by the Federal Defender’s Office also must be disclosed.
20 In submitting the proposed budget, Mr. Van Winkle shall also complete the Rate Justification Worksheet
21 (Appendix A to the Attorney Guide) so the Court can establish a reimbursement rate for his professional
22 services. The Phase I case management plan and budget shall be filed under seal by Friday January 16,
23 2009 .

24 The Court will conduct a telephonic case management and budget conference at 8:00 a.m. on
25 January 22, 2009 with counsel for Lawley initiating the call. All counsel shall participate in the case
26 management portion of the call. Counsel shall be prepared to discuss a the statute of limitations, a
27 timetable for the filing of the petition, and a protective petition, if necessary, the time necessary to
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1 assemble the record, and a date for the Warden to lodge the state record. Counsel for the Warden will
2 then be excused so that confidential matters pertaining to a proposed budget for Phase I can be resolved.

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4 IT IS SO ORDERED.

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6 Dated: January 7, 2009

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/s/ Lawrence J. O'Neill
Lawrence J. O'Neill
United States District Judge

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