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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL BUSTAMANTE,) 1:08-cv-01805 LJO YNP [DLB] (HC)
Petitioner,) ORDER GRANTING PETITIONER'S
v.) REQUEST FOR DECISION ON
L.E. SCRIBNER, Warden) PERMISSION TO FILE NEWLY
Respondent.) DISCOVERED EVIDENCE
[Doc. #20]

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On January 26, 2009, Petitioner filed a motion entitled "Request for Decision on Permission to File Newly Discovered Evidence." (Doc. #20). Petitioner seeks to expand the record by introducing an affidavit by Lavenia Perez, which he claims will support the Ineffective Assistance of Counsel claim he made in his petition. As of the date of this order, Respondent has not objected to the new evidence.

Pursuant to 28 U.S.C. § 2246 and Rule 7 of the Rules Governing Section 2254 Cases Petitioner's motion is hereby GRANTED and court will consider the Lavenia Perez affidavit in its review of the petition.

IT IS SO ORDERED.

Dated: September 17, 2009

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE