1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 JOHN MICHAEL BEAMES, Case No. 1:10-cv-01429-DAD-SAB 10 DEATH PENALTY CASE 11 Petitioner, ORDER UPON STIPULATION TO UNSEAL 12 v. BRIEFS AND CLERK'S CONFIDENTIAL PENAL CODE § 987.9 TRANSCRIPT ON 13 RON DAVIS, Warden of San Quentin State **APPEAL** 14 Prison, (Doc. No. 223) 15 Respondent. 16 Before the Court is the parties' November 7, 2016 stipulation to unseal documents lodged 17 and filed under seal pursuant to this court's October 29, 2015 order regarding a confidential state 18 court [California Penal Code § 987.9] transcript prepared by the Tulare County Superior Court 19 on October 24, 2001, captioned as a California Supreme Court document in petitioner's 20 automatic appeal. 21 22 The parties stipulate to unsealing the noted documents on grounds petitioner has waived confidentiality (see Doc. No. 223, at Ex. 1); the California Supreme Court has determined the 23 record on appeal does not include any sealed transcript comprised of Penal Code section 987.9 24 materials (see id., at Ex. 2); and the Tulare County Superior Court has signed a stipulation and 25 order unsealing the confidential 987.9 transcript (see id., at Ex. 3). 26 /// 27

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Accordingly, for good cause shown,

- 1. The Clerk of the Court is directed to lodge in the public docket the 987.9 notice of lodgment and confidential clerk's transcript prepared by the Tulare County Superior Court, consisting of two hundred seventy-two (272) pages.
- 2. The Clerk of the Court is directed to unseal the following documents filed in the docket: (i) petitioner's final list of sealed exhibits (Doc. No. 170); (ii) respondent's sealed exhibits Q, R, S, T, U, V, X, Y, (Doc. No. 171); (iii) respondent's request to seal documents (Doc. No. 214); (iv) respondent's post-hearing brief on claim 11 (Doc. No. 215); and (v) petitioner's reply to respondent's post-hearing brief on claim 11 (Doc. 222).
- 3. Any and all documents included in the noted 987.9 notice of lodgment and confidential clerk's transcript that were received as sealed exhibits at the evidentiary hearing including respondent's exhibit W and any 987.9 motions and orders previously lodged in paper form in this proceeding are unsealed.
- 4. The parties may refer to any of the above noted documents in all publicly filed future pleadings in this action.

IT IS SO ORDERED.

Dated: **November 18, 2016** 

UNITED STATES MAGISTRATE JUDGE