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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 RICARDO VELASQUEZ,

12 Petitioner,

13 v.

14 STU SHERMAN, Warden,

15 Respondent.
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Case No. 1:15-cv-01288-AWI-CDB

ORDER GRANTING STIPULATION AND
PROTECTIVE ORDER

(ECF No. 89)

17 On August 21, 2015, Petitioner Ricardo Velasquez filed a habeas corpus action pursuant
18 to 28 U.S.C. § 2241. (ECF No. 2). On November 22, 2021, the Court granted Respondent Stu
19 Sherman’s motion for and issued a protective order consistent with *Bittaker v. Woodford*, 331 F.3d
20 715 (9th Cir. 2003). (ECF No. 72). The Court ordered that Respondent is entitled to a copy of
21 Petitioner’s trial counsel’s files, that for purposes of the habeas corpus action, trial counsel’s files
22 shall be deemed to be confidential, and that the Court’s order does not constitute a waiver of the
23 confidentiality of the information beyond this action and does not authorize the information to be
24 used in a future retrial if one is ordered. *Id.* at 1-2.

25 On August 22, 2022, the Court granted Petitioner’s motion for discovery and authorized a
26 subpoena commanding the attendance of Petitioner’s trial counsel, Antonio A. Reyes, to testify
27 at a deposition.” (ECF No. 83).

28 On October 24, 2022, the parties filed a Stipulation and Proposed Order for Protective

1 Order regarding Petitioner’s trial counsel’s deposition. (ECF No. 89). Based on the parties’
2 representations and pursuant to *Bittaker*, the Court finds that good cause exists to grant the parties’
3 stipulated request.

4 Accordingly, IT IS HEREEBY ORDERED that:

5 For the purposes of this habeas corpus action, Petitioner’s trial counsel’s testimony that
6 divulges attorney client communications and work product shall be deemed to be confidential.
7 This testimony or material (hereinafter “confidential materials”) may be used only by
8 representatives from the Office of the California Attorney General who are assigned to this matter
9 as counsel for Respondent, and any expert retained by Respondent in this habeas proceeding. If
10 Respondent discloses confidential material to an expert as authorized above, Respondent shall
11 inform the expert of this protective order and the expert’s obligation under it.

12 Disclosure of the contents of the confidential materials or the confidential materials
13 themselves may not be made to any other persons or agencies, including any other law enforcement
14 or prosecutorial personnel or agencies, without an order from this Court. The terms of this order
15 do not prohibit Respondent from disclosing or discussing the confidential materials with
16 Petitioner’s trial counsel or disclosing and discussing with witnesses their own statements or
17 observations that were recorded or summarized by trial counsel’s testimony or in work product.

18 In the event of a retrial of all or any portion of Petitioner’s criminal case, any representative
19 of Respondent who participated in these habeas corpus proceedings or who was given access to
20 the confidential materials, shall be prohibited from participating in the retrial of all or any portion
21 of Petitioner’s criminal case. This order does not constitute a waiver of the confidentiality of the
22 confidential materials beyond this action and does not authorize the information to be used in a
23 future retrial if one is ordered.

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This order shall continue in effect after the conclusion of the habeas corpus proceedings and specifically shall apply in the event of a retrial of all or any portion of Petitioner's criminal case, except that either party maintains the right to request modification or vacation of this order upon entry of final judgment in this matter.

IT IS SO ORDERED.

Dated: October 25, 2022


UNITED STATES MAGISTRATE JUDGE