## 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 10 11 OMAR CEBRERO, Case No.: 1:16-cv-00173-DAD-JLT (HC) 12 Petitioner. ORDER GRANTING MOTION TO SUSPEND BRIEFING [ECF No. 45] 13 v. ORDER DIRECTING PETITIONER TO SUBMIT 14 S. FRAUENHEIM, TRANSCRIPT OF MARSDEN HEARING 15 Respondent. [30-DAY DEADLINE] 16 17 On March 20, 2017, the Court issued an order directing Respondent to file a response to the 18 petition. Respondent was granted an extension of time on May 19, 2017. On May 26, 2017, 19 Respondent filed a motion to suspend briefing. 20 Respondent notes that Petitioner claims his defense counsel rendered ineffective assistance by 21 not allowing him to testify at trial. In support of this argument, Petitioner cites to a hearing held in the 22 trial court pursuant to People v. Marsden, 2 Cal.3d 118 (1970). Since the Marsden hearing is relevant 23 to his claim, according to 28 U.S.C. § 2254(f), Petitioner has an affirmative duty to provide, if he is 24 able to, the transcript of the proceeding to the Court for unsealing and transmission to Respondent. In 25 the meantime, Respondent requests that briefing be suspended. Good cause having been presented, 26 Respondent's motion to suspend briefing will be granted. 27 **ORDER** 28 Accordingly, the Court **ORDERS**: 1) Respondent's request to suspend briefing [ECF No. 45] is **GRANTED**;

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2) Petitioner is **DIRECTED** to provide a copy of the transcript of the <u>Marsden</u> hearing within thirty days, if he is able; and 3) If Petitioner cannot do so, he must **NOTIFY** the Court of his reasons. IT IS SO ORDERED. /s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE Dated: May 30, 2017