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Attorneys for Petitioner
PATRICK B. GORDON

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

PATRICK BRUCE GORDON,
Petitioner,

v.

RON DAVIS, Warden,
San Quentin State Prison,
Respondent.

) **Case No. 2:91-cv-0882-MCE-EFB P**
)
) **DEATH PENALTY CASE**
)
) **STIPULATED SCHEDULE FOR**
) **MERITS BRIEFING, DISCOVERY**
) **REQUESTS, AND REQUESTS FOR**
) **EVIDENTIARY HEARINGS; ORDER**

Petitioner currently is required to file a Motion for Evidentiary Hearing by
October 6, 2015. Doc. 384, Mar. 31, 2015.

WHEREAS, it appears to counsel for all parties that certain claims advanced by
Petitioner in the Amended Petition for Writ of Habeas Corpus involve issues that are
record based and do not require further factual development, discovery, or evidentiary
hearings; and

1 WHEREAS, counsel for all parties believe it will be more efficient for the
2 parties to brief all claims on the merits going forward, and in that process, Petitioner
3 will identify all discovery that he contends may be required, and/or evidentiary hearings
4 that may be required to resolve any disputed material issues of fact by the parties.
5

6 IT IS HEREBY STIPULATED by and between the parties, through their
7 respective attorneys of record, that:
8

9 1. The Court's order dated March 31, 2015 (Doc. 384) that Petitioner shall
10 file a Motion for Evidentiary Hearing by October 6, 2015 should be vacated;

11 2. Petitioner will submit a brief on all claims for relief. In doing so,
12 Petitioner either will set forth that: 1) there is no genuine dispute as to any material fact
13 on the claim and that Petitioner is entitled to judgment as a matter of law; and/or, 2)
14 factual discovery is required on a claim and/or that an evidentiary hearing is required to
15 present evidence and/or resolve disputes as to material facts on the claim;
16

17 3. Respondent's brief will set forth all reasons why Petitioner is not entitled
18 to judgment as a matter of law, and/or identify any and all genuine disputes as to any
19 material fact, and shall include all reasons why Respondent contends that Petitioner is
20 not permitted to undertake discovery on any fact and/or be entitled to an evidentiary
21 hearing on any issue;
22

23 4. Counsel for the parties agree to the following briefing schedule: 1)
24 Petitioner's brief is due one year after the date this Court enters an order approving this
25 stipulation; 2) Respondent's brief is due one year after Petitioner's brief is filed; and 3)
26 Petitioner's reply brief is due three months after Respondent's brief is filed; and
27
28

1 5. The foregoing stipulation is without prejudice to Petitioner to seek relief
2 from the conviction at any time.

3 Dated: September 15, 2015

McBREEN & SENIOR

6 By: /s/ David A. Senior
7 DAVID A. SENIOR
8 ANN K. TRIA
9 Attorneys for Petitioner
 PATRICK B. GORDON

10 Dated: September 15, 2015

ATTORNEY GENERAL OF THE
STATE OF CALIFORNIA

12 By: /s/ Brook Bennigson
13 (as authorized on September 15, 2015)
14 BROOK BENNIGSON
15 Attorneys for Respondent
 RON DAVIS, Warden

16 In accordance with the above, IT IS ORDERED that:

17
18 1. This Court's order dated March 31, 2015 (Doc. 384) that Petitioner shall file
19 a Motion for Evidentiary Hearing by October 6, 2015 is vacated;

20 2. Petitioner shall submit a brief on all claims for relief. In doing so, Petitioner
21 either will set forth that: 1) there is no genuine dispute as to any material fact on the
22 claim and that Petitioner is entitled to judgment as a matter of law; and/or, 2) factual
23 discovery is required on a claim and/or that an evidentiary hearing is required to present
24 evidence and/or resolve disputes as to material facts on the claim;
25

26 3. Respondent's brief shall set forth all reasons why Petitioner is not entitled to
27 judgment as a matter of law, and/or identify any and all genuine disputes as to any
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1 material fact, and shall include all reasons why Respondent contends that Petitioner is
2 not permitted to undertake discovery on any fact and/or be entitled to an evidentiary
3 hearing on any issue;

4 4. Petitioner's brief shall be filed one year from the date of this order;

5 5. Respondent's brief shall be filed one year after Petitioner's brief is filed;

6 6. Petitioner's reply brief shall be filed three months after Respondent's brief is
7 filed; and
8

9 5. The foregoing stipulation is without prejudice to Petitioner seeking relief
10 from the conviction at any time.
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12 DATED: October 6, 2015.

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14 EDMUND F. BRENNAN
15 UNITED STATES MAGISTRATE JUDGE
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