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10 IN THE UNITED STATES DISTRICT COURT  
 11 FOR THE EASTERN DISTRICT OF CALIFORNIA

14 LARRY ROBERTS,	)	NO. CIV S-93-0254 GEB DAD DP
	)	
15                                    Petitioner,	)	
	)	<b>ORDER RE PETITIONER'S MOTION</b>
16                                    v.	)	<b>TO SEAL &amp; PROTECTIVE ORDER</b>
	)	
17 WARDEN, San Quentin State Prison,	)	
	)	<b><u>DEATH PENALTY CASE</u></b>
18                                    Respondents.	)	
	)	
19 _____	)	

21                   In a March 28, 2012 Order, the court resolved some of the issues presented by petitioner's  
 22 December 15, 2010 Motion to Seal and reserved others. (Dkt. No. 421.) At the July 31, 2012 status  
 23 conference, the parties reported that they had reached agreement on some of the remaining sealing issues.  
 24 The court ordered the parties to submit a stipulation regarding their agreements and a statement of their  
 25 disagreements. (Dkt. No. 431.) They have done so. (Dkt. Nos. 432, 433.) This order resolves the  
 26 remaining sealing issues contained in petitioner's December 15, 2010 Motion to Seal.

27                   Pursuant to the stipulation of the parties and for good cause shown, IT IS HEREBY  
 28 ORDERED as follows:

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Order

1           1. Within five days of this order, petitioner shall file Exh. 228 with the following pages  
2 redacted: AGO 5143-44, 5162-64, 5232-33, and 5250-70. The unredacted version of Exh. 228 shall  
3 remain under seal without prejudice to a motion to unseal for purposes of the evidentiary hearing.

4           2. Within five days of this order, petitioner shall file Exh. 303 with the following pages  
5 redacted: pages 84-94 (LaVaugh Hunter Diagnostic Study) and pages 95-104 (Larry Roberts Diagnostic  
6 Study). The unredacted version of Exh. 303 shall remain under seal without prejudice to a motion to  
7 unseal for purposes of the evidentiary hearing.

8           3. Petitioner's Exhibits 101, 102, 104, 304, 305, 306, 307, 308, and 309 shall be filed under  
9 seal and subject to protective order for purposes of pre-evidentiary hearing preparation, without prejudice  
10 to a motion to unseal for purposes of the evidentiary hearing.

11           4. All exhibits previously filed under seal shall remain under seal without prejudice to a  
12 motion to unseal for purposes of the evidentiary hearing.

13           5. The following protective order shall apply to all exhibits filed under seal.

14           a. For purposes of the pre-hearing phase of this capital litigation, all exhibits filed  
15 under seal in this case shall be deemed to be confidential. In any event, the exhibits filed under seal may  
16 be used only by representatives of the Office of the California Attorney General and only for purposes of  
17 any proceedings incident to litigating the claims presented in the petition for writ of habeas corpus pending  
18 before this Court.

19           b. Disclosure of the contents of the documents and the documents themselves may  
20 not be made to any other persons or agencies, including any other law enforcement or prosecutorial  
21 personnel or agencies, without an order from this Court. This order extends to respondent and all persons  
22 acting on behalf of respondent in this proceeding, including but not limited to persons employed by the  
23 Office of the California Attorney General, persons working on this matter who are employed by California  
24 governmental divisions other than the Attorney General, persons retained by respondent for any  
25 investigative or consulting work on this matter, and any expert consultants or witnesses assisting  
26 respondent.

27           c. This order shall continue in effect after the conclusion of the habeas corpus  
28 proceedings and specifically shall apply in the event of a retrial of all or any portion of petitioner's

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1 criminal case, except that either party maintains the right to request modification or vacation of this order  
2 upon entry of final judgment in this matter.

3 After considering the arguments of counsel, and good cause appearing, IT IS FURTHER  
4 ORDERED as follows:

5 1. Petitioner's request to seal Exhibits SS, BBB, FFF, 205, and 234 is denied. While all of  
6 these exhibits involve the medical history of inmate witnesses, the parties agree that all have previously  
7 been made public in state court proceedings. Further, many of these records have been discussed in  
8 publicly-filed documents submitted to the court in this action. Accordingly, the court finds no basis for  
9 sealing the documents at this time.

10 2. The Clerk of the Court is directed to file on the public docket Exhibits SS, BBB, FFF, 205,  
11 and 234.

12 Finally, the Clerk of the Court is directed to file under seal petitioner's December 15, 2010  
13 Motion to Seal Documents and respondent's April 28, 2011 Response in Partial Opposition to Petitioner's  
14 Request to Seal Documents.

15 DATED: August 21, 2012.

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19 DALE A. DROZD  
20 UNITED STATES MAGISTRATE JUDGE

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