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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	LARRY ROBERTS,	No. 2:93-cv-0254 TLN DAD
12	Petitioner,	DEATH PENALTY CASE
13	v.	
14	WARDEN, San Quentin State Prison,	<u>ORDER</u>
15	Respondent.	
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On December 17, 2013, the undersigned held a pre-evidentiary hearing conference in the above-entitled action. Assistant Federal Defenders Brian Abbington and Harry Simon appeared for petitioner. Attorney Robert Bloom participated telephonically, also for petitioner. Deputy Attorney General Glenn Pruden appeared for respondent. At that time the parties exchanged premarked exhibits and each provided the court with copies. The court confirmed the following witnesses to be called by petitioner for the in-court portion of the evidentiary hearing: Charles Kirk, Richard Urquhart, and George Cotsirilos. Mr. Pruden informed the court that a Richard Cavagnolo, who had previously been identified as respondent's witness, was being withdrawn by respondent as a proposed witness and would not testify at the hearing. In addition, Mr. Abbington informed the court that petitioner's corrections expert, James Esten, had not testified by deposition as originally planned. Rather, counsel are discussing a possible stipulation to a different method for taking Mr. Esten's testimony.

After discussion about the order in which petitioner's witnesses would be called, counsel agreed that petitioner's counsel would subpoena Mr. Kirk and that Mr. Pruden would accept service of that subpoena. Finally, counsel for both parties stated that they were aware of no evidentiary issues that should be resolved prior to the in-court portion of the evidentiary hearing. Accordingly, and good cause appearing, IT IS HEREBY ORDERED as follows:

- 1. By January 6, 2013, petitioner shall submit a letter to the court regarding the proposed method for the taking of Mr. Esten's testimony. Petitioner's counsel shall e-mail the letter to dadorders@caed.uscourts.gov and copy respondent's counsel on that e-mail.
- 2. A copy of the subpoena for Mr. Kirk shall also be provided to the court by e-mail submission or fax.
- 3. The evidentiary hearing will begin on Monday, January 13, 2014 at 9:00 a.m. in courtroom #27. It will continue through January 16, 2014. If necessary, the hearing will continue on January 22 and 23, 2014 to its completion.

Dated: December 18, 2013

DALE A. DROZD

UNITED STATES MAGISTRATE JUDGE

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