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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.	
16		
17	On Friday, January 3, 2014, petitioner filed an application for a writ of habeas corpus ad	
18	testificandum to permit him to attend the evidentiary hearing in this action set to begin Monday,	

testificandum to permit him to attend the evidentiary hearing in this action set to begin Monday, January 13, 2014. The court looks to the a number of factors, including the following, when considering whether to order the transfer of a prisoner for a court proceeding: "whether the prisoner's presence will substantially further resolution of the case, the security risks presented by the prisoner's presence, [and] the expense of the prisoner's transportation and safekeeping."

Ballard v. Spradley, 557 F.2d 476, 480 (5th Cir. 1977) (cited in Wiggins v. Alameda County, 717 F.2d 466, 468 n.1 (9th Cir. 1983)). See also Scruggs v. Vance, No. 2:06-cv-0633 KJN P, 2012 WL 2050426 (E.D. Cal. June 6, 2012). Mr. Roberts is not scheduled to testify at the evidentiary hearing in this action and has not established, nor presented any evidence suggesting, that his presence is so important that it justifies a last-minute order for his transfer to this court for attendance at the evidentiary hearing.

Accordingly, IT IS HEREBY ORDERED that petitioner's January 3, 2014 Application for Writ of Habeas Corpus Ad Testificandum (ECF No. 490) is DENIED. Dated: January 9, 2014 UNITED STATES MAGISTRATE JUDGE roberts ad test.or