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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTONIO ESPINOZA,  
  
                                Petitioner,  
  
                                v.  
  
WARDEN, San Quentin State Prison,  
  
                                Respondent.

No. 2:94-cv-1665 JAM KJN (TEMP)  
  
DEATH PENALTY CASE  
  
ORDER


On April 28, 2016, the undersigned held a status conference. Assistant Federal Defenders Lissa Gardner and Kelly Culshaw appeared for petitioner. Deputy Attorneys General Kenneth Sokoler and Sean McCoy appeared for respondent. Counsel agreed that there are two outstanding issues in this case. In 2006, petitioner filed an amended motion for an evidentiary hearing, which was argued in 2007. In 2011 and 2012, the parties filed briefs addressing the “impact of Cullen v. Pinholster . . . on these proceedings and, in particular, on petitioner’s motion for an evidentiary hearing.” (ECF No. 238.) However, petitioner’s counsel informed the court that they are unable to address the status of these proceedings with any more specificity because they have not yet had an opportunity to review all of the files from predecessor counsel. This difficulty is understandable. According to petitioner’s counsel, in the approximately two months since they were appointed, they have collected most, but not all, of the extensive paper files, amounting to 60 boxes of records, from predecessor counsel.

1 Petitioner's counsel requested an additional six months to review the records from  
2 predecessor counsel and the state and federal court proceedings. The court finds good cause for  
3 this additional time.

4 Accordingly, and good cause appearing, IT IS HEREBY ORDERED as follows:

- 5 1. By October 28, 2016, petitioner shall file a statement describing the status of these  
6 proceedings and proposing a plan for going forward. In particular, petitioner shall  
7 address: (a) whether he seeks to file additional or substitute briefs on the 2006 motion  
8 for an evidentiary hearing and/or the 2011 Pinholster briefing; and (b) whether  
9 existing briefing adequately addresses issues arising under 28 U.S.C. § 2254(d). To  
10 the extent petitioner proposes new briefing, he shall explain specifically what he  
11 wishes to do and why those actions are justified.
- 12 2. Within 45 days of the filed date of petitioner's statement, respondent shall file a  
13 responsive statement.
- 14 3. After receiving respondent's statement, the court will determine whether to hold a  
15 status conference.

16 Dated: April 28, 2016

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19 KENDALL J. NEWMAN  
20 UNITED STATES MAGISTRATE JUDGE  
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26 Espinoza sts.or  
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