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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 KJM DB

ORDER

Petitioner is a state prisoner proceeding through counsel with a petition for a writ of habeas corpus under 28 U.S.C. §2254. Pending before the court is petitioner’s counsel’s motion to determine incompetency and appoint a guardian ad litem. Respondent takes no position on the motion. (See ECF No. 309 at 5.) This court finds argument on the motion appropriate and will set a hearing. Attendance of the proposed guardian ad litem is not required.

The most recent evidence counsel presents in support of the motion is from 2022. If there are more recent documents, such as a 2023 determination in a Keyhea proceeding or other records relevant to petitioner’s motion and available to counsel, petitioner’s counsel shall file them no later than ten days before the hearing. The filing should include a notice of filing with a description of the documents but should not include a brief. Respondent may, but need not, file a response to that submission no later than three days before the hearing.

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Accordingly, IT IS HEREBY ORDERED that

1. A hearing on petitioner’s motion to determine incompetency and appoint a guardian ad litem is set for Friday, August 25, 2023, at 10:00 a.m. before the undersigned in courtroom #27.

2. By August 15, 2023, petitioner’s counsel shall file any additional evidence relevant to their motion, as described above. By August 22, respondent may file a response to petitioner’s counsel’s submission.

3. The August 15, 2023 deadline for submission of a joint statement is lifted. This court will set a new deadline after resolution of petitioner’s pending motion.

Dated: July 26, 2023


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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