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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTONIO ESPINOZA,  
  
  Petitioner,  
  
  v.  
  
WARDEN,  
  
  Respondent.

No. 2:94-cv-1665 KJM SCR P

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 for the appointment of a guardian ad litem. (ECF No. 309.) The court previously found appointment of a neutral expert necessary to consider the motion. (ECF No. 329.) The parties have proposed appointment of psychiatrist Dr. Hwa Soo Hoang. (ECF No. 337.) This court has reviewed Dr. Hoang’s credentials and experience and has determined that appointment of Dr. Hoang is appropriate. Dr. Hoang has consented to the appointment. Accordingly, the court appoints Dr. Hoang under Federal Rule of Evidence 706.

In April 2024, the court was provided with petitioner’s mental health records dated January 2022 through March 2024. Those records, and additional records on the court’s docket, will be provided to Dr. Hoang. Because petitioner’s present competence is at issue, this court will

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1 order petitioner's present place of incarceration to submit updated records for the court's, and for  
2 Dr. Hoang's, review.

3 In order to inform Dr. Hoang of the issues he is being called upon to evaluate, the court  
4 requires a better understanding of the factual and other issues for which petitioner's counsel may  
5 require petitioner's assistance as this case moves forward. The court recognizes that discussion of  
6 those issues may involve revelation of protected attorney work product or privileged  
7 communications between counsel and petitioner. Therefore, the court intends to hold an ex parte,  
8 closed hearing with petitioner's counsel. If respondent has any objection to this procedure, they  
9 shall notify the court within seven days of this order.

10 For the foregoing reasons, IT IS HEREBY ORDERED as follows:

- 11 1. The court appoints Dr. Hwa Soo Hoang as a neutral expert under Federal Rule of  
12 Civil Procedure 706.
- 13 2. Within twenty days of the date of this order, the custodian of records, or other  
14 appropriate official, at the California Medical Facility shall forward to the court and to  
15 Dr. Hoang copies of petitioner's mental health records from April 2024 to the present.  
16 Records should be emailed to SCRorders@caed.uscourts.gov and  
17 hwasoo.hoang@ucsf.edu. If petitioner is no longer incarcerated at the California  
18 Medical Facility, petitioner's counsel shall inform the court of petitioner's present  
19 place of incarceration within five days of the date of this order.
- 20 3. On December 9, 2024 at 10:00 a.m. in courtroom #27, the undersigned will hold an ex  
21 parte, closed hearing with counsel for petitioner to discuss the issues to be addressed  
22 by Dr. Hoang.

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4. The Clerk of the Court is directed to serve a copy of this order on the litigation coordinator at the California Medical Facility at CDCRCMFLitigationCoordinator@cdcr.ca.gov and on Dr. Hoang at hwasoo.hoang@ucsf.edu.

Dated: November 22, 2024



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SEAN C. RIORDAN  
UNITED STATES MAGISTRATE JUDGE