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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LANCE IAN OSBAND,

Petitioner,

No. CIV S-97-0152 WBS KJM

vs.

DEATH PENALTY CASE

ROBERT L. AYERS, Jr.,  
Warden of San Quentin  
State Prison,

Respondent.

ORDER

\_\_\_\_\_ /  
The district judge has denied petitioner's July 17, 2008 motion for reconsideration of this court's June 13, 2008 order. As described in the June 13 order, the court must now identify which portions of the evidentiary hearing transcript and exhibits should remain sealed. See June 13, 2008 Order at 23. The undersigned is aware that petitioner previously filed a list of transcript pages and exhibits he believes should remain sealed. See Pet'r's Dec. 14, 2007 Supp. List of Trans. Pages to Remain Sealed. However, as described in the June 13 order, and reiterated below, additional information is required to support each sealing request. Accordingly, IT IS HEREBY ORDERED as follows:

1. Within twenty days of the filed date of this order, petitioner shall file under seal a statement identifying each portion of the evidentiary hearing transcript, and each portion of any exhibits, that he believes should remain under seal, based on the attorney/client privilege

1 or the work product doctrine. In this statement, petitioner shall explain: (a) the relevance of the  
2 information he seeks to seal to an issue that may be raised on any retrial, (b) the likelihood the  
3 issue may be raised on any retrial, and (c) the prejudice he could suffer should that information  
4 be revealed.

5           2. Within twenty days of the filing of petitioner's statement, respondent shall file  
6 a responsive statement, also under seal.

7           3. Within ten days of the filing of respondent's response, petitioner may file a  
8 sealed reply.

9           4. Thereafter, the court will designate those portions of the final transcript and  
10 exhibits that will remain under seal, and set a post-hearing briefing schedule. The court will keep  
11 sealed all currently sealed transcripts and exhibits either until the time for a motion for  
12 reconsideration has passed or as ordered by the district judge if such motion is filed.

13 DATED: February 5, 2009.

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16 U.S. MAGISTRATE JUDGE

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