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

MILTON OTIS LEWIS,

Petitioner,

No. CIV S-02-0013 FCD GGH DP

vs.

**DEATH PENALTY CASE**

ROBERT AYERS, Warden

Respondent.

ORDER

\_\_\_\_\_ /

Within 14 days of the filed date of this order, the parties shall file concurrent  
briefs informing the court of their position with respect to:

(a) the jurisdiction of the Court of Appeal to review a *denial* of a motion to stay  
proceedings;

(b) if an interlocutory appeal is appropriate, to what extent the district court is  
deprived of jurisdiction to continue on with the merits of the action preceding trial (evidentiary  
hearing) and the evidentiary hearing itself, considering that the issue on appeal (present  
competency to proceed) is unrelated to the merits of the habeas petition itself.

Dated: 10/05/10

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

GGH:gh - lewis0013.ord