

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

MICHAEL A. COX,	)	NO. CIV S-04-0065
	)	
Petitioner,	)	<b><u>DEATH PENALTY CASE</u></b>
v.	)	
WARDEN, of the California State Prison at	)	<b>ORDER TO CORRECT</b>
San Quentin	)	<b>SUPPLEMENTAL LODGEMENT OF</b>
Respondent.	)	<b>STATE COURT RECORD</b>
_____	)	

In compliance with this Court’s August 27, 2010, order directing the parties to meet and confer and offer a proposed stipulation and order with respect to the correction of the record previously lodged by respondent in this action, the parties having stipulated and agreed to make the following corrections to the lodgement of the state court record, it is hereby ORDERED that:

- A. The following portions of the original lodged record shall be stricken and returned to respondent; petitioner will replace such pleadings with clean copies:
1. Respondent's brief (AG) December 11, 1987;
  2. Informal response (AG) April 26, 1988;
  3. Supplemental petition for writ of habeas corpus (OSPD) April 6, 1990;
  4. Notice and motion to disqualify counsel for the state (OSPD) May 5, 1992;
  5. Petitioner's proposed findings of fact (OSPD) August 31, 1995; and
  6. Respondent's suggested modifications to Referee's intended decision with appropriate commentary upon Petitioner's corrections (Darlene) (AG) September 8, 1988.

1 B. The following portions of the original lodged record shall be stricken and returned to  
2 respondent by petitioner:<sup>1</sup>

3 <b>Trial CTs</b>	Volume II
4 <b>Trial RTs</b>	Volume VI
5	Volume VIII
6	Volume XII
7	Volume XV

8 <b>Reference Hearing</b>	Volume 3
9 <b>RTs</b>	Volume 8
10	Volume 11
11	Volume 12
12	Volume 13
13	Volume 14
14	Volume 17
15	Volume 22
16	Volume 24
17	Volume 30

18  
19  
20 C. The following reference hearing exhibits in the lodged record shall be stricken and  
21 returned to respondent; petitioner shall replace such exhibits with clean copies:  
22  
23  
24  
25

---

26  
27 <sup>1</sup> “Clean” copies of these items were previously submitted in the supplemental  
28 lodgement, thus these are duplicate volumes containing marginalia, editorial commentary and  
other defacements.

**Reference Hearing Exhibits:**

Pet.	116-A
	117-B
	118-B
	119-B
	120-C
	121
	124-A
	124-B
	149-A
	150-A
	151-A
	161
	162
	163
Resp.	T2

D. The following reference hearing exhibits in the lodged record shall be stricken, withdrawn by petitioner, and returned to respondent:<sup>2</sup>

**Reference Hearing Exhibits :**

Ct.	1
Pet.	101
	105

---

<sup>2</sup> These exhibits were not admitted into evidence during the reference hearing.

**Reference Hearing Exhibits :**

106

107

111

112

114

125

139

142

144

145

146

Resp. C

R

S

U

V

W

X

Y

VV

YY

AAA

DDD

EEE

1 E. Petitioner shall withdraw the following identified exhibits in the lodged record and  
2 replace them with properly redacted copies of the portions that were admitted at the  
3 reference hearing, and return the original exhibits to respondent:

4 Reference Hearing Exhibits :

5 Pet. 141 (pages 6-7 admitted)

6 Resp. B (page 1, line 19 et seq. admitted)

7  
8 F. Petitioner shall lodge copies of the contents of the audiotapes that were admitted into  
9 evidence at the reference hearing, in the form of audio compact discs:

10 People's Exhibit QQQ

11 Defense Exhibit 116

12 Defense Exhibit 117

13 Defense Exhibit 118

14 Defense Exhibit 119

15 Defense Exhibit 120

16 Defense Exhibit 124-1

17 Defense Exhibit 124-2

18 Defense Exhibit 140A

19 Defense Exhibit 147

20 Defense Exhibit 149

21 Defense Exhibit 150

22 Defense Exhibit 151

23 G. Petitioner shall lodge:  
24 Petitioner's Reply to informal response filed May 31, 1990; and  
25 Respondent's suggested modifications to Referee's intended decision with appropriate  
26 commentary upon Petitioner's corrections (Mobert).

1 H. Petitioner shall have 60 days after the entry of the Court's order to effectuate the  
2 correction of the lodgement of the state court record as set forth above.

3

4 DATED: October 6, 2010.

5

6

  
\_\_\_\_\_  
DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

7

8 DAD1:capital  
9 Cox0065.stipord-CorrectSuppLodgement.wpd

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28