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

FRANCISCO JAVIER CARRANZA,

Petitioner,

No. CIV S-08-CV-02479 MCE CHS P

vs.

JAMES WALKER,

Respondent.

ORDER

_____/

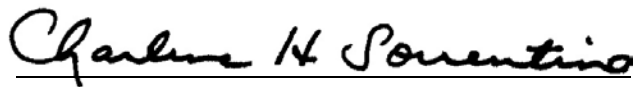
Petitioner, Francisco Javier Carranza , is a state prisoner proceeding through counsel with a petition for writ of *habeas corpus* pursuant to 28 U.S.C. § 2254. Petitioner is currently serving a determinate term of forty-five years imprisonment following his convictions by jury trial in the Sacramento County Superior Court, Case No. 02F08252, for nine counts of second degree robbery. The jury found true penalty enhancements pursuant to section 12022.53 of the California Penal Code with respect to four of the second degree robbery counts. The jury also found true a penalty enhancement pursuant to section 667(a) of the California Penal Code for a previous felony conviction. With this petition, Petitioner challenges the constitutionality of his convictions. Specifically, Petitioner makes several claims of prosecutorial misconduct and further alleges that

1 the trial court erred in denying his *Marsden* motion.¹

2 According to Petitioner, his trial counsel disclosed information subject to attorney-
3 client privilege to a court appointed doctor, Charles Schaffer, who was ordered by the trial court to
4 conduct a competency evaluation of Petitioner. His trial counsel's alleged disclosure of confidential
5 information was the subject of a *Marsden* hearing at trial. Petitioner now argues, as he did on
6 appeal, that the trial court committed constitutional error in denying his motion for substitute
7 counsel, pursuant to *People v. Marsden*, 2 Cal.3d 118, 126 (1970). Dr. Schaffer's written
8 competency evaluation, in part, formed the basis for the appellate court's conclusion that the trial
9 court properly denied Petitioner's *Marsden* motion.

10 In accordance with Rule 7 of the Rules Governing Section 2254 Cases in the United
11 States District Courts, IT IS HEREBY ORDERED that within twenty-one days from the date of this
12 order, respondent shall lodge a sealed copy of Dr. Schaffer's written competency evaluation, with
13 a copy of this order attached, that was part of the evidentiary record before the California Court of
14 Appeal, Third Appellate District. The clerk shall maintain the evaluation under seal until further
15 order of the court.

16 DATED: August 18, 2010.

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18 CHARLENE H. SORRENTINO
19 UNITED STATES DISTRICT COURT
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26 ¹Petitioner's claims five and six were dismissed on May 13, 2009 after this court determined that Petitioner had failed to exhaust his remedies in state court.