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

SHANNON SECREASE,

Petitioner,

No. CIV S-09-0299-JAM-TJB

vs.

JAMES WALKER,

Respondent.

ORDER

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Petitioner Shannon Secrease is a state prisoner proceeding through counsel with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On January 25, 2011, Respondent was ordered to provide transcripts of the May 28, 1998, *Marsden* hearing, and the June 18, 1998, appearance on the motion for a new trial. These transcripts were requested to address Petitioner’s eleven ineffective assistance of counsel claims, out of a total of twenty-four claims.

On February 8, 2011, Respondent filed a response, stating Respondent “[wa]s not now, and ha[d] never been, in possession of these transcripts.” Resp’t’s Resp., Feb. 8, 2011, ECF No. 1. Respondent stated that Petitioner’s counsel should have a copy of transcript for the May 28, 1998, *Marsden* hearing. *Id.* Respondent also noted that the June 18, 1998, appearance on the motion for a new trial “w[as] reported but not transcribed.” *Id.* Respondent reported that “[t]he

1 supervisor of court reporters for the superior court has stated that court reporter's notes are  
2 routinely destroyed after 10 years." *Id.* at 2. Respondent concluded he "[wa]s unable to comply  
3 with the Court's order at this time." *Id.*

4 On February 10, 2011, Respondent filed an updated response, stating he was able to  
5 locate a court reporter who transcribed the May 28, 1998, *Marsden* hearing. Resp't's Updated  
6 Resp., Feb. 10, 2011, ECF No. 53. Respondent stated he would be able to provide a copy of the  
7 transcript for the May 28, 1998, *Marsden* hearing. Respondent's effort to obtain transcripts is  
8 acknowledged.

9 Based upon Respondent's representations, Petitioner may be able to provide a copy of the  
10 transcript for the June 18, 1998, appearance on the motion for the new trial.

11 IT IS HEREBY ORDERED that:

12 1. Petitioner shall file a copy of the transcript for the June 18, 1998, appearance on the  
13 motion for a new trial, or provide an affidavit showing why Petitioner cannot produce the  
14 transcript; and

15 2. Petitioner shall file the above documents within fourteen days of the date of this order.

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19 DATED: February 14, 2011.

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22 TIMOTHY J BOMMER  
23 UNITED STATES MAGISTRATE JUDGE  
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