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

CHARLES RAY SMITH,

Petitioner,

No. CIV S-09-2967 MCE GGH P

vs.

M. MCDONALD,

ORDER

Respondent.

_____/

Petitioner is a state prisoner proceeding with appointed counsel with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On January 5, 2011, the undersigned appointed counsel for petitioner for the ineffective assistance of counsel claim with respect to the competency hearing to aid in providing a more complete analysis and representation of what occurred. It was also ordered that a joint scheduling statement be filed.

The parties timely filed a joint scheduling report and petitioner’s counsel requested 90 days to further investigate the claim. The request is granted and petitioner will be provided 90 days to determine if formal discovery, motions or an evidentiary hearing will be necessary.

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Accordingly, IT IS HEREBY ORDERED that petitioner will be given 90 days from the date of this order to determine if formal discovery, motions or an evidentiary hearing will be necessary. Petitioner shall file an appropriate motion at the expiration of the 90 days, or state that no motion will be filed and the matter may be decided on the papers.

Dated: February 15, 2011

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

ggh:ab
smit2967.ord