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

JAMES ALEXANDER,

Petitioner,

No. CIV S-10-0643

vs.

D. K. SISTO, Warden,

Respondent.

ORDER

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Petitioner is a state prisoner proceeding through counsel with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On August 18, 2010, petitioner filed a motion for an order directing respondent to lodge with the court additional portions of the state court record or, in the alternative, for an order enlarging the record with copies of the state court record lodged by petitioner along with his motion. The lodged state court records consist of: (1) the exhibits filed by petitioner in support of his state court petition for a writ of habeas corpus; and (2) the transcript of a January 2, 2008 parole consideration hearing at which the Board of Parole Hearings found petitioner suitable for parole.

Respondent initially opposed this motion on the grounds that he was unable to verify that the records in question had been filed in state court. However, on September 20, 2010, respondent filed a statement of non-opposition to petitioner’s motion to enlarge the record.

1 Respondent explains that it has now been verified that the lodged documents were filed in the  
2 San Diego County Superior Court. This court concludes that the lodged documents are necessary  
3 to a determination of this action. See Rule 7 of the Rules Governing Section 2254 Cases in the  
4 United States District Courts.

5 Accordingly, IT IS HEREBY ORDERED that petitioner's August 18, 2010  
6 motion to enlarge the record with copies of the lodged state court record is granted.

7 DATED: October 5, 2010.

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11 DALE A. DROZD  
12 UNITED STATES MAGISTRATE JUDGE

11 DAD:8  
12 alexander654.lodge