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

ROBERT EDWARD MAURY,

Petitioner,

No. CIV S-12-1043 WBS DAD

vs.

DEATH PENALTY CASE

WARDEN, San Quentin State
Prison

Respondent.

ORDER

_____ /
Petitioner is a state prisoner proceeding pro se. He has filed applications for leave to proceed in forma pauperis, for appointment of counsel, and for a stay of execution.

Good cause appearing, IT IS HEREBY ORDERED as follows:

1. Petitioner’s request to proceed in forma pauper is granted.
2. Petitioner’s application for appointment of counsel is granted. Michael Laurence, Executive Director of the Habeas Corpus Resource Center (“HCRC”), and Kevin Bringuel, also of HCRC, are appointed to represent petitioner pursuant to 18 U.S.C. § 3599. See Local Rule 191(c).

3. Petitioner’s request for a stay of execution is denied at this time as unnecessary and without prejudice in light of the fact that no execution date has been set.

1 4. On May 8, 2012 at 10:00 a.m. in courtroom #27, this court will hold a case
2 management conference. Petitioner’s counsel shall be prepared to discuss the setting of a date
3 for filing of the federal habeas petition. Respondent’s counsel shall be prepared to discuss the
4 setting of a date for the lodging of the state court record as described in Local Rule 191(h)(1), as
5 well as a date for the filing of the answer or other responsive pleading.

6 5. At the conclusion of the case management conference, respondent’s counsel
7 will be excused and the conference will continue ex parte with counsel for petitioner present to
8 discuss budgeting procedures. Petitioner’s counsel shall bring to the budgeting conference a
9 completed Case Evaluation Form and a completed Rate Justification Worksheet. A copy of the
10 Case Evaluation Form is attached. The Rate Justification Worksheet is Appendix A to the
11 “Judicial Council of the Ninth Circuit Amended CJA Capital Habeas Costs Policy,” found on
12 this court’s website at www.caed.uscourts.gov, under Sacramento, Attorney Info, Forms, CJA.

13 6. In addition to serving this order upon counsel, the Clerk of the Court is
14 directed to serve it upon Kurt Heiser, CJA Administrator, Office of the Federal Defender for the
15 Eastern District of California.

16 DATED: April 25, 2012.

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19 _____
20 DALE A. DROZD
21 UNITED STATES MAGISTRATE JUDGE

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23 maury ifp csl.or
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1 **CONFIDENTIAL CASE EVALUATION FORM**

2
3 *The answers on this form are for case management and budgeting purposes only and will not*
4 *be binding in any respect on substantive issues to be raised in the course of litigation.*

5 **NAME OF ATTORNEY(S):**

6 **Lead Counsel:**

7 **Co-Counsel:**

8 **STATE LEVEL PROCEEDINGS**

9 1. Did either lawyer participate in any part of Petitioner’s state proceedings?

10 No -- proceed to question 2. Yes (indicate which lawyer) _____

11 If yes, in what aspects of the case?

12
13 2. Was a state habeas petition involving the same conviction and sentence filed?

14 No Yes

15 If yes: Date filed: _____ Disposition &
16 Date: _____

17 3. Was investigation performed at the state level?

18 Yes No

19 If yes, what was the purpose?
20
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1 4. Were funds requested at the state level for post-conviction investigation?

2 No - Reason:

3
4 Yes

| | | |
|----------------|------------------|-------------------|
| | <u>Amount</u> | <u>Amount</u> |
| <u>Purpose</u> | <u>Requested</u> | <u>Authorized</u> |

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9 5. Was discovery requested at the state level?

10 No - Reason:

11

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13 Yes

| | |
|--------------------------------------|---|
| <u>Nature of Discovery Requested</u> | <u>Was it:</u> <u>Granted? Denied?</u> |
|--------------------------------------|---|

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17 6. Was an evidentiary hearing held at the state level?

18 Yes No

19

STATUTE OF LIMITATIONS

20

21 Based on current information, what is the date required
22 by the statute of limitations for filing of the petition? _____

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THE RECORD

25

26 1. Has the record been assembled?

Yes No: Missing portion(s) and
location? _____

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2. Have the complete files of prior counsel been obtained?

Yes No: Missing portion(s) and location? _____

3. As accurately as possible (recognizing that it may be an estimate at this point), provide information about the size of the record:

| <u>Type of Record</u> | <u>No. of Pages</u> |
|--|-----------------------------|
| Trial transcript & Exhibits | _____ |
| State appellate record | _____ |
| State habeas record & Exhibits (including transcript from any state evidentiary hearing) | _____ |
| Ancillary files and records (including prior counsel's files, investigative reports, etc.) | _____ |
| Total Pages | <u> </u> |

1 **FACTORS AFFECTING CASE COMPLEXITY**

2 Check all the factors applicable to this case and provide information that will allow
3 determination of whether the case may be especially complex or costly:

4 Age of Petitioner at time of offense: _____

5 Co-defendants (specify if tried jointly or separately).

6 Number: _____

7 Number of victims: _____

8 Related cases.

Summarize:

9
10
11 Prior convictions.

Number and type:

12
13
14 Elapsed time since offense: _____

15 Elapsed time since trial: _____

16 Informant involved

Number, type and availability of informant(s):

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19 Serial homicides

Number of different events at separate locations:

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22 Number of death eligibility circumstances alleged: _____

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Other crimes charged
List:

Unadjudicated criminal conduct
Type:

Unadjudicated bad acts
Type and Petitioner's age at commission:

Petitioner spent an extended time out of the state or country
Location:

Petitioner's family presently out of the state or country
Location:

Witnesses or other investigation that will require travel
Provide specifics, including number of witnesses, locations, and number of trips anticipated:

Petitioner's and/or family's background records were not obtained in state proceedings.

There are issues as to competency/mental illness/or other disabilities.
Explain impact on legal issues:

1 Explain impact on client relations:

- 2
- 3 Use of drugs or alcohol at time of offense.
- 4 Petitioner suffered physical/mental abuse as a child.
- 5 Translator required for Petitioner.
- 6 Translator required for witnesses.
- 7 Number of witness and types:

- 8
- 9 Scientific procedures will be required.
- 10 Type:

- 11
- 12 No investigation was performed or was denied at the state level.
- 13 No evidentiary hearing was conducted at the state level.
- 14 Other issues - Describe:
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