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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL JAY HARRIS,  
Petitioner,  
v.  
CONNIE GIPSON.,  
Respondent.

No. 2:13-cv-2604 LKK CKD P

ORDER

In his petition brought pursuant to 28 U.S.C. § 2254, petitioner raises several claims of ineffective assistance of trial counsel. Respondent has been directed to file a response to the petition. Before the court is respondent’s request for a copy of the sealed transcript of a Marsden hearing<sup>1</sup> held in petitioner’s criminal case on March 10, 2010.

Pursuant to California statute, Marsden proceedings are confidential, and the transcripts of those proceedings are to be maintained under seal. See Cal. R. Ct. 8.45, *Advisory Committee Comment*, subd. (b)(5). Under state law, such a record “must be transmitted only to the reviewing court and the party or parties who had access to the record in the trial court or other proceedings

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<sup>1</sup> People v. Marsden, 2 Cal.3d 118 (1970) requires the trial court to give “a party an opportunity to present argument or evidence in support of his contention” requesting substitution of counsel in a hearing outside the presence of the jury.

1 under review and may be examined only by the reviewing court and that party or parties.” Cal. R.  
2 Ct. 8.45(d)(1). When respondent recently requested a copy of the sealed Marsden transcript from  
3 the Court of Appeal, Third Appellate District, the court granted the request in part by sending a  
4 sealed copy to the undersigned, but otherwise denied respondent’s request. (ECF No. 22-1 at 2.)

5 As sealed Marsden transcripts are commonly lodged in federal habeas actions, and good  
6 cause appearing, IT IS HEREBY ORDERED that the Clerk of Court send one (1) copy of the  
7 March 10, 2010 Marsden hearing transcript to respondent under seal, and one (1) copy to  
8 petitioner, also under seal.

9 Dated: June 10, 2014

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12 CAROLYN K. DELANEY  
13 UNITED STATES MAGISTRATE JUDGE

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