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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SALVADOR CERVANTES,  
Petitioner,  
v.  
SHREW SHERMAN,  
Respondent.

No. 2:16-cv-1837-EFB P

ORDER

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He asserts a claim of ineffective assistance of counsel. ECF No. 1. At respondent’s request, the court deferred briefing pending respondent’s receipt of a sealed *Marsden*<sup>1</sup> hearing transcript from the state court, which may be relevant to petitioner’s claim in this action. ECF No. 10. A subsequent status report submitted by respondent states that respondent submitted a request to the California Court of Appeal for release of the sealed transcript. ECF No. 11. A copy of that request was not submitted with the status report and it is not clear whether respondent asked the state court to send the transcript to this court or to the parties in the state court proceeding. In any event, the California Court of Appeal responded by submitting a copy of the transcript to this court, along with a brief letter, stating, “Enclosed please

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<sup>1</sup> *People v. Marsden*, 2 Cal. 3d 118 (1970).

1 find a copy of the sealed Marsden transcript filed in this court on September 15, 2014, in the  
2 above case.” This court infers from the state court’s response to respondent’s request for release  
3 of the transcript that it has necessarily modified its sealing order to permit use of the transcript for  
4 these proceedings subject to a protective order. Accordingly, a copy of the transcript shall be  
5 made available to respondent and the terms of the stipulated protective order submitted by the  
6 parties are approved. The parties shall be bound by those terms and their use of the transcript  
7 shall comply with that order.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The parties’ request (ECF No. 17) is granted. The Clerk is directed to forward the  
10 state court *Marsden* hearing transcript to respondent’s counsel. Upon receipt,  
11 respondent shall furnish petitioner with a copy.
- 12 2. The parties’ stipulated protective order (ECF No. 17-1 at 1:25-2:2) is approved and the  
13 parties shall comply with that order in their use and handling of the transcript.

14 DATED: May 3, 2017.

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16 EDMUND F. BRENNAN  
17 UNITED STATES MAGISTRATE JUDGE  
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