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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
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7 QUINN MALCOLM WILRIDGE,

No. C 09-2236 SI

8 Petitioner,

ORDER:

9 v.

**(1) GRANTING PETITIONER'S
REQUEST FOR AN EVIDENTIARY
HEARING; AND**

10 JOHN MARSHALL, warden,

11 Respondent.
_____ /

**(2) DENYING RESPONDENT'S MOTION
FOR LEAVE TO FILE A MOTION FOR
RECONSIDERATION**

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14 Presently before the Court is a motion by petitioner Quinn Malcolm Wilridge requesting that the
15 Court set an evidentiary hearing. Docket No. 52. Respondent opposes petitioner's request and, instead,
16 proposes that the Court set forth a schedule for briefing on whether an evidentiary hearing is necessary.
17 After reviewing the parties' arguments and the record in this action, the Court determines that it is
18 appropriate to schedule an evidentiary hearing at this time.¹ See Docket No. 31 at 5-6.
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20 _____
21 ¹ On February 4, 2013, respondent filed a motion for reconsideration of the Court's January 23,
22 2013 order requiring an evidentiary hearing. Docket No. 34. On February 6, 2013, respondent filed a
23 motion for leave to file its motion for reconsideration. Docket Nos. 34, 36. Under Civil Local Rule 7-
24 9(b), a party moving for leave to file a motion for reconsideration must specifically show one of the
25 following:

- 26 (1) That at the time of the motion for leave, a material difference in fact or law exists
27 from that which was presented to the Court before entry of the interlocutory order for
28 which reconsideration is sought. The party also must show that in the exercise of
reasonable diligence the party applying for reconsideration did not know such fact or law
at the time of the interlocutory order; or
(2) The emergence of new material facts or a change of law occurring after the time of
such order; or
(3) A manifest failure by the Court to consider material facts or dispositive legal
arguments which were presented to the Court before such interlocutory order.

Respondent's motion for leave does not satisfy any of the above requirements. Accordingly, the Court
DENIES respondent's motion for leave to file a motion for reconsideration.


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The Court therefore ORDERS briefing by the parties, incorporating the full medical and prison records and expert reports, in advance of the evidentiary hearing, as follows:

1. Petitioner’s opening brief on its Rule 60(b) motion for relief is due by **May 19, 2014**;
2. Respondent opposition brief is due by **June 16, 2014**;
3. Petitioner’s reply brief is due by **June 30, 2014**; and
4. An evidentiary hearing is scheduled for **July 18, 2014 at 9:00 a.m.**²

IT IS SO ORDERED.

DATED: April 28, 2014



SUSAN ILLSTON
United States District Judge

² If the parties are able to stipulate that petitioner is entitled to equitable tolling of the AEDPA statute of limitations, the Court will vacate the evidentiary hearing and set forth a briefing schedule for proceeding on the merits of the petition.