

United States District Court
For the Northern District of California

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

DAVID NIEVES,

No. C 09-02677 CRB, CR 08-0587

Petitioner,

**ORDER AS TO WAIVER AND
DISCOVERY**

v.

UNITED STATES OF AMERICA,

Respondent.

On December 13, 2010, in light of Petitioner’s claims of ineffective assistance of counsel, the government moved for an order finding a limited waiver of the attorney-client privilege, permitting limited discovery, and staying the Court’s October 20, 2010 Order to Show Cause. See dckt. no. 36. The Court ordered Petitioner to respond. See dckt. no. 37. Petitioner timely responded, informing the Court that he “does not oppose the government’s motion.” See dckt. no. 39. Accordingly, the Court ORDERS that (1) Petitioner has waived the attorney-client privilege in limited part, specifically as to the areas raised in the Motion to Vacate, Set Aside or Correct His Sentence, filed June 17, 2009; (2) the government is entitled to inquire of Assistant Federal Public Defender Daniel Blank regarding any oral communications with Petitioner and review any written communications with Petitioner relating to the subject areas raised in Petitioner’s claims; (3) the government is precluded from using the privileged materials for any purpose other than litigating the Motion to

1 Vacate, Set Aside or Correct His Sentence; and (4) the government may not disclose these
2 materials or their contents to any other persons, including law enforcement or prosecutorial
3 agencies, excluding other representatives of the United States Attorney's Office who are
4 assisting in responding to this motion.

5 The government shall respond to Petitioner's Motion to Vacate, Set Aside or Correct
6 His Sentence within forty-five (45) days of this Order.

7 **IT IS SO ORDERED.**

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9 Dated: March 14, 2011



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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE