IN THE UNITED STATES DISTRICT COURT 1 2 FOR THE NORTHERN DISTRICT OF CALIFORNIA 3 MARIO MERINO, No. C 08-3231 CW (PR) 4 Petitioner, ORDER LIFTING STAY, REOPENING CASE, AND 5 v. DIRECTING RESPONDENT TO FILE SUPPLEMENTAL ANSWER 6 MICHAEL MARTEL, Warden, TO PETITIONER'S AMENDMENT TO THE PETITION 7 Respondent. (Docket no. 23) 8

Petitioner Mario Merino, a state prisoner, filed this pro se 10 petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, raising three grounds for relief. On July 15, 2008, the Court 12 issued an Order to Show Cause why the writ should not be granted. 13 Respondent filed an answer and Petitioner filed a traverse. 14

Thereafter, Petitioner moved to stay the petition on the 15 ground that he had been informed by the Santa Clara County Office 16 of the Public Defender that the office was reopening his case based 17 on the state appellate court's recent decision in <u>People v. Uribe</u>, 18 162 Cal. App. 4th 1457 (2008), which held that a videotape of 19 a victim's Sexual Assault Response Team (SART) examination was 20 favorable defense evidence as defined under Brady v. Maryland, 373 21 U.S. 83 (1963), and that the prosecution's failure to produce the 22 videotape of the SART exam constituted a <u>Brady</u> violation. <u>Uribe</u>, 23 162 Cal. App. 4th at 1463. 24

On May 6, 2010, the Court granted Petitioner's request to stay 25 the present proceedings while he returned to state court to exhaust 26 his Brady claim. Now, having exhausted his state remedies, 27

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Petitioner has filed an amendment to the petition setting forth his
<u>Brady</u> claim and a request to lift the stay.

Good cause appearing, Petitioner's motion to lift the stay is4 GRANTED. The Clerk of the Court shall REOPEN this case.

5 Because Petitioner's original three claims already have been briefed by the parties, Respondent shall file with the Court and 6 7 serve upon Petitioner, within sixty (60) days of the issuance of 8 this Order, a supplemental answer to the amendment to the petition. 9 Respondent shall file with the supplemental answer a copy of all 10 portions of the state trial record that have been transcribed 11 previously and that are relevant to a determination of the issue 12 presented by the amendment to the petition.

13 If Petitioner wishes to respond to the answer, he shall do so 14 by filing a <u>supplemental traverse</u> with the Court and serving it on 15 Respondent within <u>thirty (30) days</u> of his receipt of the 16 supplemental answer. Otherwise, the entire petition, i.e., all of 17 Petitioner's claims, will be deemed submitted and ready for 18 decision thirty days after the date Petitioner is served with 19 Respondent's supplemental answer.

20 Petitioner is reminded that all communications with the Court, 21 whether by way of formal legal motions or informal letters, must be 22 served on Respondent by mailing a true copy of the document to 23 Respondent's counsel.

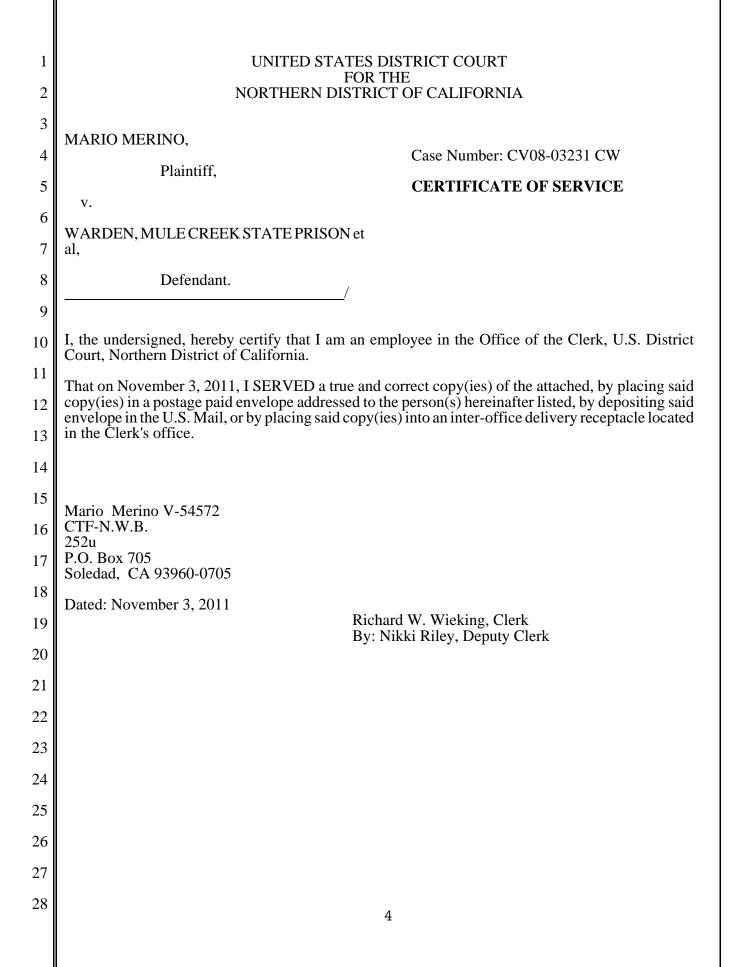
Extensions of time are not favored, though reasonable extensions will be granted. Any motion for an extension of time must be filed no later than <u>seven (7) days</u> prior to the deadline sought to be extended.

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The Clerk shall serve a copy of this Order and the amendment to the petition (docket no. 22) and all attachments thereto upon Respondent's attorney. The Clerk shall also serve a copy of this Order on Petitioner at his most current address. This Order terminates Docket no. 23. IT IS SO ORDERED. 1. William Dated: 11/3/2011 WILKEN UNITED STATES DISTRICT JUDGE

United States District Court For the Northern District of California



United States District Court For the Northern District of California