

1 CHARLES E. PATTERSON (CA SBN 120081)
ANNETTE CARNEGIE (CA SBN 118624)
2 SOMNATH RAJ CHATTERJEE (CA SBN 177019)
MORRISON & FOERSTER LLP
3 425 Market Street
San Francisco, California 94105-2482
4 Telephone: 415.268.7000
Facsimile: 415.268.7522
5 Email: CPatterson@mofocom
ACarnegie@mofocom
6 SChatterjee@mofocom

7 MICHAEL SATRIS (CA SBN 67413)
Law Offices of Michael Satris
8 Post Office Box 337
Bollinas, CA 94924
9 Telephone (415) 868-9209
Email: Satris@earthlink.net.

10 Attorneys for Plaintiff
11 CLARENCE RAY ALLEN

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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION
16

17 CLARENCE RAY ALLEN,
18 Plaintiff,
19 v.

20 RODERICK HICKMAN, SECRETARY,
CALIFORNIA DEPARTMENT OF
21 CORRECTIONS AND REHABILITATION,
STEVEN ORNOSKI, WARDEN, CALIFORNIA
22 STATE PRISON AT SAN QUENTIN, ARNOLD
SCHWARZENEGGER, GOVERNOR OF
23 CALIFORNIA, AND DOES 1 THROUGH 25,
24 INCLUSIVE,

25 Defendants.
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27
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Case No. C 05-5051 JSW

**DECLARATION OF PABLO
STEWART, M.D. IN SUPPORT OF
PLAINTIFF'S APPLICATION FOR
A TEMPORARY RESTRAINING
ORDER AND AN ORDER TO
SHOW CAUSE**

DECLARATION OF PABLO STEWART, M.D.

I, Pablo Stewart, M.D., declare as follows:

1. I am a physician licensed to practice in the states of Hawai'i and California. My area of specialty is psychiatric medicine with over 19 years experience as a forensic psychiatrist. I have been retained by counsel for Clarence Ray Allen, who is a death row inmate at San Quentin State Prison scheduled for execution on January 17, 2006, to perform a psychiatric evaluation as part of the investigation of Mr. Allen's history and current condition that bear on his application for executive clemency. I have personal knowledge of the facts set forth herein and, if called, could competently testify thereto.

2. I have provided consultation to governmental and private agencies on a variety of psychiatric, forensic, substance abuse and organizational issues, including service as a Psychiatric and Substance Abuse Consultant to the San Francisco Police Officers' Association. I received my M.D. from the University of California, San Francisco, School of Medicine. I am a diplomat in psychiatry, American Board of Psychiatry and Neurology. I also hold the position of Associate Clinical Professor, Department of Psychiatry, University of California, San Francisco, School of Medicine. I am a Juvenile Health and Medical Consultant to the United States Department of Justice, Civil Rights Division. I am a member of the Human Services Commission, City and County of San Francisco, and of the California Association of Drug Court Professionals, and serve as an Examiner for the American Board of Psychiatry and Neurology, Inc. I have made over 130 presentations to professional

gatherings on psychiatric and substance abuse topics, especially as they relate to prisoners and at risk youth. I have authored or co-authored numerous books, articles and briefs on psychiatric, substance abuse and forensic subjects. A copy of my C.V. setting forth my credentials in more detail is attached to this declaration.

3. I interviewed Mr. Allen on two occasions: on December 2 and December 6, 2005, for approximately two hours each session. I also reviewed Mr. Allen's social history and other records provided by counsel, including reports of previous mental health examinations. I have identified certain issues that upon further investigation may provide evidence in support of his bid for clemency. I understand that evidence of brain damage, including psychiatric sequelae, that either affected Mr. Allen's conduct for which he has been sentenced or that currently affects him now on death row may serve as evidence to support his request for executive clemency
4. In the course of evaluating of Mr. Allen, I have identified potentially significant evidence that should be pursued in ascertaining whether he has suffered brain damage and its effect upon him. This evidence includes the fact that he suffered from, and was treated for, severe pediatric viral encephalitis at age 16 in 1946, an affliction now known to cause psychiatric effects in many cases, and that he suffered blunt trauma to the head in that same year, with protracted loss of consciousness.
5. Investigation of the stark contrast between Mr. Allen's criminality, including the grandiose and manic imagery of criminality in some of his poems, and the

pro-social, kind and loving conduct and attitude widely attested to by his family, friends, and coworkers -- sentiments reflected as well in other poems of his -- also needs to be conducted to assess him. Past psychological and neuropsychological testing confirms that Mr. Allen does not present the features of a "sociopathic"¹ or anti-social personality. Rather, there is reason to suspect that his criminality may reflect an underlying "organic mood disorder."² In addition, the possibility of a "cyclic mood disorder" should be investigated. This mood disorder may be secondary to a medical condition such as brain damage.

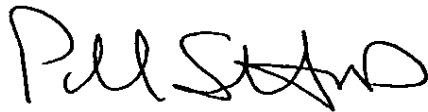
6. Brain damage may have resulted from a violent beating inflicted by a sheriff in Las Cruces, New Mexico in 1946, as well as Mr. Allen's affliction with severe viral encephalitis that same year. The possibility of brain damage and related behavioral impacts also appears to be supported by testimonial evidence in the record of changes in Mr. Allen's personality subsequent to these events. It is therefore important that neurological testing be performed to elucidate those matters.
7. In addition, psychiatric assessment of Mr. Allen requires complete neuropsychological and neurological testing. Evaluation of those tests is necessary to determine whether brain damage is present, as well as the extent of any cognitive deterioration since he was last examined. I understand that thorough neuropsychological testing cannot be completed until Mr. Allen

¹ The Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) does not recognize the diagnosis of sociopathic personality disorder. This term, however, is often used in the field of forensic psychiatric to imply that a person is suffering from an antisocial personality disorder.

² The diagnosis "Organic Mood Disorder" is now referred to as "Mood Disorder Due to a General Medical Condition." Organic Mood Disorder was in use at the time of Mr. Allen's offenses.

receives surgery to improve his vision, without which the visual test battery cannot be administered. I understand that this eye surgery has been recommended but not performed. I fully concur in counsel's request that Mr. Allen undergo a SPECT test and MRI procedures to aid in the assessment. These procedures would provide a picture of Mr. Allen's brain, including the limbic system, which can be of great significance in evaluating the possibility of an "underlying mood disorder" or a "cyclic mood disorder" that might be linked to brain damage.

8. In order to permit me to complete my evaluation, I recommend that Mr. Allen undergo surgical treatment for his vision so that he can complete the necessary testing, and that he undergo a SPECT test and MRI procedures to aid in the assessment of the test results. I can then determine whether further consultations with Mr. Allen are necessary.
9. I declare under the penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed in ^{SAN}FRANCISCO CA this TH10 day of December 2005.



Pablo Stewart, M.D.