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10 Attorneys for Plaintiff
11 CLARENCE RAY ALLEN

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

15
16 CLARENCE RAY ALLEN,

17 Plaintiff,

18 v.

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

24
25 Defendants.

Case No. C 05-5051 JSW

**REPLY DECLARATION OF
MICHAEL SATRIS IN SUPPORT
OF PLAINTIFF'S APPLICATION
FOR A TEMPORARY
RESTRAINING ORDER AND AN
ORDER TO SHOW CAUSE**

1 I, Michael Satris, declare as follows:

2 1. I am one of the attorneys for plaintiff Clarence Ray Allen in this proceeding and submitted
3 a declaration in support of his request for a temporary restraining order. As indicated in that
4 declaration, though the California Supreme Court appointed me to represent Mr. Allen in state post-
5 appeal proceedings in that court concerning his death judgment, and I also represented Mr. Allen
6 under appointment of the federal court in federal habeas corpus proceedings challenging his death
7 judgment, the terms of neither appointment provided for my representation of Mr. Allen in clemency
8 proceedings before the Governor.

9 2. I was reluctant to accept any appointment to represent Mr. Allen in clemency proceedings
10 because both the demands of my practice, including representation of Mr. Allen in further court
11 proceedings pursuant to my existing appointments, and the limited resources the state provides to
12 appointed counsel caused me to conclude that my appointment was impractical. I simply would not
13 have had the time or the resources to provide meaningful representation to Mr. Allen. Accordingly, I
14 deferred any enlargement of my appointment to provide representation to him for clemency purposes.
15 Given the failure of the California Supreme Court to appoint other counsel for Mr. Allen for
16 clemency purposes, however, I contributed what I could to the effort to secure him counsel and
17 outline a clemency strategy. Gradually, I stepped in to the breach in the continuing absence of
18 appointment of other counsel, and by midsummer of this year it became clear that no other counsel
19 was available to accept appointment by the Supreme Court to represent Mr. Allen for clemency
20 purposes. I soon then began informally to represent Mr. Allen for clemency purposes, with the
21 understanding that the law firm of Morrison & Foerster would assist me. I formally made myself
22 available to the California Supreme Court to accept appointment by letter dated November 7, 2005.
23 (A copy of that letter is attached to this declaration as Exhibit A.) As set forth in my prior
24 declaration, the California Supreme Court expanded my appointment to include representation of Mr.
25 Allen in clemency proceedings before the Governor in an order it filed on November 14, 2005. Thus,
26 the clemency investigation on behalf of Mr. Allen began in earnest only shortly before he suffered his
27 heart attack on September 2, 2005.

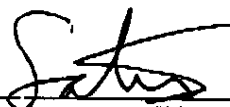
1 3. Attached as Exhibit B is the clemency application that is being submitted to the Governor
2 today, which is its due date. Among the clemency actions requested is a reprieve for 120 days, in
3 order to permit Ray Allen and his counsel to prepare and submit a full application that sets forth all
4 the bases for commutation of sentence, free of the various impediments to preparation of the petition
5 the subject of this proceeding.

6 4. As set forth in that clemency application:

7 Administrative impediments to access to counsel continue to the time of this
8 writing. For example, prison officials have barred any legal visits with Ray
9 Allen from December 10-13, the four days up to and including the due date for
10 this application. This bar is a product of prison policy that generally restricts the
11 weekend to personal visits and for a condemned prisoner reportedly permits such
12 weekend legal visits only when he is within thirty days of execution (December
13 10 & 11), and an administrative decision to preclude all visitation on Monday
14 and Tuesday (December 12 & 13) due to the prison's plans to execute another
15 prisoner that Tuesday. Counsel intended to schedule in that time an interview of
16 Ray Allen by a consultant (as well as an attorney visit) to further develop the
17 grounds for clemency, which now cannot be included in the application.
18 Counsel had also attempted to schedule this consultant and others for earlier
19 visits but had not received a timely response from the prison administration.
20 Counsel was later advised that the responsible administrator had been busy with
21 other matters, including cancellation of appointments already scheduled for that
22 Monday and Tuesday because of the prison's decision to preclude legal visits on
23 those days.

24 The consultant referred to in that excerpt from the application is Daniel Vasquez, the former
25 warden at San Quentin. A prison official has since orally advised me that Mr. Vasquez will not be
26 authorized to conduct a legal interview of Mr. Allen as an expert representative of mine because he is
27 not a mental health professional. Thus, instead of permitting Mr. Vasquez to conduct an interview of
28 Mr. Allen under my auspices, prison authorities will permit him access to Mr. Allen only as a
personal visitor. That status is subject to various measures more restrictive than legal visits,
including the need to obtain a visiting application from the inmate, which then must be filled out and
submitted to prison officials for approval of visits. In my experience, that process can take weeks.
Moreover, personal visitors may not possess a pen or paper, are not provided confidentiality, and
must conduct their visits in a room crowded with other visitors and only on certain designated days of
the week, primarily the weekend.

1 I declare under penalty of perjury under the laws of the State of California and the United
2 States that the foregoing is true and correct and that this declaration was executed on December 13,
3 2005, in Marin County, California.

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MICHAEL SATRIS