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7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 **JONATHAN MONTANA,**
13
14 Petitioner,
15
16 **JEFF MACOMBER, Secretary of the**
California Department of Corrections and
Rehabilitation,
17
18 Respondent.

25-cv-09717-TLT

INITIAL JOINT CASE MANAGEMENT STATEMENT

Date: February 19, 2026
Time: 2:00 p.m.
Courtroom: 9
Judge: The Honorable Trina L. Thompson

19
20 The parties submit this Initial Joint Case Management Statement pursuant to the Clerk's
21 Notice Setting Initial Case Management Conference and the Court's order. Dkt. Nos. 17, 23.

- 22 1. Jurisdiction and Service: This case involves a petition for writ of habeas corpus brought
23 by a state prisoner pursuant to 28 U.S.C. § 2254. Dkt. 1. In his petition, petitioner
24 named the United States as the respondent. *See id.* However, the United States was not
25 the proper respondent, because petitioner was challenging his state criminal judgment
26 and was in the custody of state authorities. On November 11, 2025, the Court ordered
27 petitioner to serve the petition on respondent. Dkt. No. 6. On November 28, 2025, the
28 Court ordered petitioner to show cause that he had served the petition on respondent.

1 Dkt. No. 11. On December 3, 2025, petitioner filed a response to the order to show
2 cause, stating that he had served the “United States Attorney” and “Attorney General of
3 the United States” with the petition. Dkt. No. 12. In fact, petitioner had served the
4 United States Attorney’s Office and the California Attorney General’s Office, but there
5 was confusion on the part of both offices because the wrong respondent was named. On
6 December 18, 2025, the Court expressed concern that respondent had not entered an
7 appearance in the matter and ordered petitioner to again show cause that he had served
8 the petition on respondent. Dkt. No. 15. On December 22, 2025, petitioner responded
9 to the second order to show cause with a corrected proof of service and moved to amend
10 his petition to reflect the correct respondent. Dkt. Nos. 18, 20. That same day, the
11 California Attorney General’s Office entered an appearance on behalf of the proper
12 respondent, Jeff Macomber, the Secretary of the California Department of Corrections
13 and Rehabilitation, and asked that Secretary Macomber be substituted for the United
14 States as the respondent. Dkt. Nos. 21, 22. On December 23, 2025, the Court
15 discharged the order to show cause, accepted the corrected service, and substituted
16 Secretary Macomber for the United States as the respondent. Dkt. Nos. 23, 24.

- 17 2. Facts: A Santa Clara County jury found petitioner guilty of sodomy by use of an
18 intoxicating, anesthetic, or controlled substance; sodomy by force; oral copulation by
19 use of an intoxicating, anesthetic, or controlled substance; oral copulation by force; rape
20 by use of an intoxicating, anesthetic, or controlled substance; and rape by force. *People*
21 *v. Montana*, No. H049456, 2024 WL 2932316, at *1 (Cal. Ct. App. June 11, 2024). The
22 trial court sentenced petitioner to three years in state prison. *Id.* The California Court
23 of Appeal affirmed petitioner’s judgment on appeal. *Id.* On August 14, 2024, the
24 California Supreme Court denied a petition for review. *See* Pet. at 5.
- 25 3. Legal Issues: The petition raises seven claims of ineffective assistance of trial counsel
26 and one claim of cumulative error. *See* Pet. at 18-68.
- 27 4. Motions: On November 12, 2025, petitioner filed a motion for a stay to exhaust state
28 court remedies. Dkt. No. 2. On January 12, 2026, respondent filed an opposition. Dkt.

1 No. 25. On February 6, 2026, petitioner filed a motion for leave to file a late reply
2 along with a reply. Dkt. Nos. 26, 27.

3 5. Amendment of Pleadings: None.

4 6. Evidence Preservation: N/A.

5 7. Disclosures: N/A.

6 8. Discovery: N/A.

7 9. Class Actions: N/A.

8 10. Related Cases: None.

9 11. Relief: Petitioner is seeking to overturn his state criminal judgment.

10 12. Settlement and ADR: N/A.

11 13. Other References: No.

12 14. Narrowing of Issues: N/A.

13 15. Scheduling: The parties are awaiting a ruling on petitioner's motion for a stay.

14 16. Trial: N/A.

15 17. Disclosure of Non-party Interested Entities or Persons: N/A.

16 18. Professional Conduct: All attorneys of record for the parties have reviewed the
17 Guidelines for Professional Conduct for the Northern District of California.

18 19. Other: None.

19
20 Dated: February 11, 2026

/s/ MICHELE J. SWANSON
MICHELE J. SWANSON
Counsel for Respondent

21
22
23 Dated: February 11, 2026

/s/ JOHN D. KIRBY
JOHN D. KIRBY
Counsel for Petitioner

CERTIFICATE OF SERVICE

Case Name: **Jonathan Montana v. Jeff
Macomber, Secretary of the
California Department of
Corrections and Rehabilitation** No. **25-cv-09717-TLT**

I hereby certify that on February 11, 2026, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

INITIAL JOINT CASE MANAGEMENT STATEMENT

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on February 11, 2026, at San Francisco, California.

K. Kibbe

Declarant

/s/ K. Kibbe

Signature