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No. 16-3397

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**In the United States Court of Appeals  
FOR THE SEVENTH CIRCUIT**

BRENDAN DASSEY,  
PETITIONER-APPELLEE,

*v.*

MICHAEL A. DITTMANN,  
RESPONDENT-APPELLANT.

On Appeal From The United States District Court  
For The Eastern District Of Wisconsin, Case No. 14-cv-1310,  
The Honorable William E. Duffin, Magistrate Judge

**RESPONDENT-APPELLANT'S UNOPPOSED<sup>1</sup> MOTION TO  
ACCEPT PHYSICAL COPIES OF A DVD EXHIBIT IN  
RESPONDENT-APPELLANT'S SEPARATE APPENDIX**

The primary issue in this habeas case is whether Brendan Dassey's confession to two police investigators was voluntary. *See* Respondent-Appellant's Br. 28–44. The confession at issue was video recorded, and both a written transcript and DVD recording are part of the district court record. *See* R.19-25, 19-44. To aid this Court's review, the State<sup>2</sup> reproduced the transcript and provided four<sup>3</sup> DVD copies of the recorded confession in its separate appendix. The electronic version of that appendix

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<sup>1</sup> Undersigned counsel is authorized to represent that the Petitioner-Appellee consents to this Motion.

<sup>2</sup> Michael Dittmann, the Warden of the Columbia Correctional Institution at which Dassey is confined, is the named respondent. Because the State of Wisconsin is the real party in interest, this Motion refers to the Respondent-Appellant as "the State."

<sup>3</sup> Pursuant to F.R.A.P. 30(e).

included a scanned image of those DVDs. *See* Respondent-Appellant's Separate Appendix 268.

The State was unsure how to include DVDs in an appendix given the requirement to file electronically. 7th Cir. R.25. The clerk's office did not know how to accomplish this either, but suggested that one possible solution would be to convert the DVDs into digital video files and upload them. Unfortunately, file-size restrictions make this infeasible for a six-hour video. After searching this Court's rules, handbook, and electronic filing instructions, and looking for examples from other cases, the State decided that scanning the DVDs was the closest it could come to replicating the physical DVDs in the electronic appendix.

After the brief was filed, the clerk's office informed the State that the DVD copies would be discarded because they were not part of the electronic appendix. The State asked the clerk's office to retain the DVDs until it could file this Motion, informing the Court of the situation and asking it to accept the physical DVDs as part of the appendix. The State provided the DVD copies entirely for this Court's convenience—a single copy of each DVD is already available in the district court record. R.19-44–46. If there is a better way to ensure that all judges on the panel assigned to this case have access to the video, the State would be more than happy to follow some other procedure.

Dated: November 4, 2016

Respectfully Submitted,

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/s/ Luke N. Berg

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 4, 2016, I filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to all registered CM/ECF users.

Dated: November 4, 2016

/s/ Luke N. Berg

LUKE N. BERG