

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

In re DEMIAN JOHNSON,

On Habeas Corpus.

F055768

(Super. Ct. No. HC010520A)

**ORDER MODIFYING OPINION
[NO CHANGE IN JUDGMENT]**

THE COURT:

On the court's own motion and for good cause, the opinion filed in the above-referenced matter on August 4, 2009, is hereby modified as follows:

1. On page 1, the first paragraph, second sentence, of the opinion is modified to read: "Petitioner, who is serving a 15-years-to-life sentence for murder, was issued two CDC 115's for prisoner misconduct, neither of which resulted in the loss of custody credits."

2. On page 1, the second paragraph, first sentence, is modified to read: "We conclude that the Department's issuance of a CDC 115 itself does not invoke the right to due process and review by the courts."

3. On page 3, the second paragraph, first sentence, is modified to read: "At the administrative hearing, Johnson stated that the correction fluid was his and the pen came from the chaplain."

4. On page 3, the second paragraph, sixth sentence, delete "A second level," beginning the sentence with "Review of the discipline"

5. On page 4, the second paragraph, first sentence, delete "the first level review hearing for," and replace with "the administrative hearing on"

Except for the modifications set forth in this order, the opinion previously filed remains unchanged. These modifications do not alter the judgment.

Wiseman, Acting P.J.

WE CONCUR:

Hill, J.

Kane, J.