

AUG 20 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ELIJAH CLAY,

Petitioner - Appellee,

v.

A. P. KANE,

Respondent - Appellant.

No. 07-55377

D.C. No. CV-04-08663-VAP
Central District of California,
Los Angeles

ORDER

On Remand from the United States Supreme Court

Before: PREGERSON and WARDLAW, Circuit Judges, and LEIGHTON, District Judge.*

In light of the Supreme Court's opinion in *Swarthout v. Cooke*, 131 S.Ct. 859 (2011), this case is remanded to the district court for further proceedings consistent with that opinion.

* The Honorable Ronald B. Leighton, United States District Judge for the Western District of Washington, sitting by designation.