

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

In re NORMAN G. MORRALL
on Habeas Corpus.

3 Civ. C040322

ORDER MODIFYING ORDER
OF OCTOBER 10, 2002;
NO CHANGE IN JUDGMENT

THE COURT:

The "ORDER MODIFYING OPINION AND DENYING REHEARING; NO CHANGE IN JUDGMENT," filed in this case on October 10, 2002, is modified in the following particulars:

1. The paragraph commencing with the words, "In claiming that the prohibition against ex post facto laws," is stricken and replaced with the following paragraph:

In claiming that the prohibition against ex post facto laws precludes the Governor from reviewing and reversing the Board's determination that Morrall is unsuitable for parole, Morrall's

petition for writ of habeas corpus and his points and authorities in support thereof do not cite the United States Supreme Court's decision in *Garner v. Jones, supra*, 529 U.S. 244 [146 L.Ed.2d 236]. Morrall does refer to that decision in his "denial and memorandum of points and authorities in support thereof," filed after the People's return to the order to show cause. However, Morrall does not cite or rely upon it in his petition for rehearing filed after we issued our opinion in this case on September 23, 2002.

2. The paragraph commencing with the words, "It is understandable why Morrall did not rely on that case," is stricken and replaced with the following paragraph:

In denying Morrall's petition for rehearing, we take this opportunity to explain why the decision in *Garner v. Jones* is of no assistance to him.

These modifications do not change the judgment.

FOR THE COURT:

SCOTLAND, P.J.

BLEASE, J.

HULL, J.