

**FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

DOUGLAS RAY MILLER,  
*Petitioner-Appellant,*

v.

OREGON PAROLE BOARD AND POST  
PRISON SUPERVISION,  
*Respondent-Appellee,*

and

POST PRISON SUPERVISION,  
*Respondent.*

No. 07-36086

D.C. No.

CV-05-00440-

MWM

District of Oregon,  
Portland

ORDER

Filed February 2, 2011

Before: Richard A. Paez and Richard R. Clifton,  
Circuit Judges, and Larry A. Burns,\* District Judge.

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**ORDER**

The Opinion filed on January 18, 2011, and reported at \_\_\_ F.3d \_\_\_ (9th Cir. 2011), 2011 WL 135041, is hereby withdrawn and vacated.

Within 14 days of the filing of this Order, each party shall submit a letter-brief addressing what effect, if any, the United States Supreme Court decision in *Swarthout v. Cooke*, 562 U.S. \_\_\_ (2011) has on this matter. The letter-briefs shall not exceed five pages.

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\*The Honorable Larry A. Burns, District Judge for the U.S. District Court for Southern California, San Diego, sitting by designation.

The court will file a new disposition in due course.