

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

GEORGE SOULIOTES, <i>Petitioner-Appellant,</i>  v.  MIKE EVANS, Warden; ANTHONY HEDGPETH, Warden, <i>Respondents-Appellees.</i>
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No. 08-15943  
D.C. No.  
1:06-cv-00667-  
OWW-WMW  
  
ORDER

Appeal from the United States District Court  
for the Eastern District of California  
Oliver W. Wanger, District Judge, Presiding

Argued and Submitted  
February 12, 2010—San Francisco, California

Filed August 17, 2011

Before: M. Margaret McKeown and Marsha S. Berzon,\*  
Circuit Judges, and Thomas S. Zilly,\*\*  
Senior District Judge.

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\* Due to the death of Judge Cynthia Holcomb Hall, Judge Marsha S. Berzon, United States Circuit Judge for the Ninth Circuit, was drawn to replace her.

\*\* The Honorable Thomas S. Zilly, Senior United States District Judge for the Western District of Washington, sitting by designation.

**COUNSEL**

Randall S. Luskey, Orrick, Herrington & Sutcliffe LLP, San Francisco, California, for the petitioner-appellant.

Kathleen A. McKenna, Deputy Attorney General, Office of the Attorney General of California, Fresno, California, for the respondents-appellees.

Sheryl Gordon McCloud, Law Offices of Sheryl Gordon McCloud, Seattle, Washington; Bob Barr, Atlanta, Georgia; Matthew D. Brown, Cooley Godward Kronish LLP, San Francisco, California, for the amici.

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**ORDER**

In light of the intervening en banc decision in *Lee v. Lampert*, No. 09-35276, 2011 WL 3275947 (9th Cir. Aug. 2, 2011) (en banc), we vacate our opinion in *Souliotes v. Evans*, 622 F.3d 1173 (9th Cir. 2010), reverse the district court's dismissal of Souliotes's habeas petition as untimely, and remand for proceedings consistent with *Lee*.

We also vacate our order of limited remand issued on May 25, 2011, with the understanding that the district court will conduct whatever proceedings are necessary, in an expedited manner, to determine whether any of Souliotes's habeas claims may be addressed on the merits.

**REVERSED and REMANDED.**