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# Death Penalty

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

FRANCIS HERNANDEZ,  
Petitioner,  
v.  
MICHAEL MARTEL,\*  
Acting Warden, California State  
Prison at San Quentin,  
Respondent.

CASE NO. CV 90-4638 RSWL  
**DEATH PENALTY CASE**  
JUDGMENT

**IT IS HEREBY ORDERED** that Petitioner Francis Gerard Hernandez’s petition for writ of habeas corpus be **CONDITIONALLY GRANTED** and that the sentence of death in the matter of *People v. Francis Gerard Hernandez*, Case No. A-022813 in the California Superior Court for the County of Los Angeles, be **VACATED**.

**IT IS FURTHER ORDERED** that respondent shall, within 120 days of date from entry of this judgment, either grant petitioner a new penalty phase trial or vacate the death sentence and resentence petitioner in accordance with applicable California law and the United States Constitution.

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\* Michael Martel is substituted for his predecessors as Acting Warden of the California State Prison at San Quentin, pursuant to Federal Rule of Civil Procedure 25(d).

1 **IT IS FURTHER ORDERED** that the Clerk of this Court shall  
2 immediately notify the Warden of San Quentin State Prison of this Court's  
3 judgment.

4 **IT IS SO ORDERED.**

5 Dated: August 16, 2011.

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9 Ronald S. W. Lew  
10 United States District Judge  
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**Case No.** CV 90-4638-RSWL      **Case Title** FRANCIS HERNANDEZ v. MICHAEL MARTEL

**Title of Document** JUDGMENT

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	BOP (Bureau of Prisons)
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✓	CAAG (California Attorney General's Office - Keith H. Borjon, L.A. Death Penalty Coordinator)
	Case Asgmt Admin (Case Assignment Administrator)
	Chief Deputy Admin
	Chief Deputy Ops
	Clerk of Court
	Death Penalty H/C (Law Clerks)
	Dep In Chg E Div
	Dep In Chg So Div
✓	Federal Public Defender
	Fiscal Section
	Intake Section, Criminal LA
	Intake Section, Criminal SA
	Intake Supervisor, Civil
	MDL Panel
✓	Ninth Circuit Court of Appeal
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	Schnack, Randall (CJA Supervising Attorney)
	Statistics Clerk

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	US Attorneys Office - Civil Division - S.A.
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\* For CIVIL cases only

	<b>JUDGE / MAGISTRATE JUDGE (list below):</b>

**Initials of Deputy Clerk**   KD