



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JOHN ALBERT RICHARDSON,
Petitioner,
v.
P.L. VASQUEZ, Warden,
Respondent.

Case No. CV 04-1193-RGK (MLG)

ORDER TO SHOW CAUSE WHY JUDGMENT
SHOULD NOT BE ENTERED

This matter is before the court on a Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254, following reversal by the United States Court of Appeals for the Ninth Circuit. *Richardson v. Vasquez*, Case No. 08-55201 (9th Cir., March 12, 2010). The mandate was issued on May 5, 2010.

In an order and judgment entered November 1, 2006, District Judge R. Gary Klausner adopted my September 11, 2006, Report and Recommendation, which concluded that the petition should be denied because the trial court's imposition of a 28 years to life sentence, following conviction of failing to register a change of address, in violation of Cal. Penal Code § 290(a)(1)(A)(B) did not violate the

1 Eighth Amendment to the United States Constitution.

2 In reversing and remanding this decision the Ninth Circuit
3 disagreed. The Court stated: "A sentence of 28 years to life for a
4 § 290 violation of this nature is grossly disproportionate to the
5 offense and therefore, runs afoul of the Eighth Amendment." *Gonzales*
6 *v. Duncan*, 551 F.3d 875, 877 (9th Cir. 2008).

7 It is the intent of the Court to recommend that judgment be
8 entered granting the petition for writ of habeas corpus and directing
9 that state court proceedings to resentence Petitioner commence within
10 60 days of the date of the Order. Objections to entry of such an
11 Order and Judgment shall be filed no later than May 19, 2010.

12
13 Dated: May 6, 2010

14
15
16 
17 _____
18 Marc L. Goldman
19 United States Magistrate Judge
20
21
22
23
24
25
26
27
28