

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

PHILLIP ANGEL SENTENO,

vs.

**STATE OF CALIFORNIA; DERRAL
ADAMS, Warden,**

Petitioner,

Respondents.

CASE NO. 08cv0694-JLS(JMA)

**CASE STATUS FOLLOWING *EN
BANC* DECISION IN HAYWARD
V. MARSHALL AND BRIEFING
ORDER**

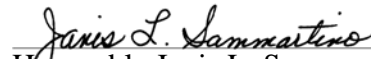
Petitioner Phillip Angel Senteno ("Senteno"), a state prisoner confined at the California Substance Abuse Treatment Facility and State Prison ("SATF"), Corcoran, proceeding *pro se* and *in forma pauperis*, sought a 28 U.S.C. § 2254 writ of habeas corpus challenging the Governor's reversal of the Board of Parole Hearings' 2006 decision to grant him parole. This case, along with many other habeas corpus cases raising parole denial issues under California law, highlighted a dispute regarding the appropriate standard of review to apply, a question anticipated since 2008 to be clarified by the Ninth Circuit's decision following its *en banc* rehearing of Hayward v. Marshall, 512 F.3d 536 (9th Cir.), *reh'g en banc granted* 527 F.3d 797 (9th Cir. 2008).

1 By Order entered December 8, 2009, the undesigned District Judge granted Senteno's Petition.
2 (Dkt No. 13.) Pursuant to Rule 8 of the Federal Rules of Appellate Procedure, Respondents requested
3 a stay of the Order granting Senteno habeas relief while they appeal that result. (Dkt No. 15.) On
4 December 21, 2009, in consideration of the unsettled state of the law in this area, the Court granted
5 the stay to preserve the *status quo* pending the outcome of the appeal and granted a Certificate of
6 Appealability. (Dkt Nos. 18, 19.) By Order entered March 11, 2010, the Ninth Circuit denied
7 Appellee's motion to vacate the Court's stay Order, granted Appellants' "motion to stay appellate
8 proceedings pending issuance of the mandate in *Hayward v. Marshall*, appeal No. 06-55392," and held
9 in abeyance Appellee's motion for appointment of counsel. (Dkt No. 22.)

10 The Ninth Circuit filed its *en banc* Opinion in Hayward on April 22, 2010. After the mandate
11 in that case issues, the stay of appellate proceedings presumably will be lifted, and the appeal will
12 proceed in the normal course. Jurisdiction remains at this time with the appellate court. **IT IS**
13 **HEREBY ORDERED** Respondents shall promptly notify the Court of the result of their appeal,
14 including any associated instructions from the Ninth Circuit, accompanied by briefing to address the
15 appropriate disposition of this Court's stay of the Order granting Senteno habeas relief.

16 **IT IS SO ORDERED.**

17
18 DATED: May 11, 2010

19 
20 Honorable Janis L. Sammartino
21 United States District Judge
22
23
24
25
26
27
28