

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**  
EASTERN DISTRICT OF CALIFORNIA

ALBERT ANDREW LUCERO,  
Petitioner,  
v.  
KIM HOLLAND, Warden,  
Respondent.

Case No. 1:10-CV-01714-AWI-SKO-HC  
ORDER DIRECTING CLERK OF COURT  
TO CLOSE CASE

Petitioner, Albert Andrew Lucero, is a state prisoner proceeding with an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner filed his petition for writ of habeas corpus on September 10, 2010, alleging five grounds for habeas relief: (1) improper admission of evidence; (2) violation of Petitioner’s right to confrontation; (3) insufficient evidence; (4) violation of Petitioner’s Due Process Rights; and (5) state law errors.

On May 15, 2015, the District Court denied the petition and entered judgment for Respondent. Petitioner appealed to the Ninth Circuit Court of Appeals. On August 31, 2018, the Ninth Circuit affirmed in part, reversed in part, and remanded the petition with instructions for this Court to grant Petitioner’s petition for writ of habeas corpus on his claim that his conviction for possession of a shank while in custody (Cal. Penal Code §4502(a)) violated Jackson v. Virginia, 443 U.S. 307 (1979).

On June 16, 2021, Respondent filed a status report advising the Court that Petitioner had

1 been resentenced as of February 8, 2021, in accordance with the Court's order. (Doc. 77.) In  
2 support, Respondent has attached a copy of the minute order entered in Stanislaus County  
3 Superior Court reflecting that the sentence on count 3 was vacated and Petitioner was resentenced  
4 on the other counts. (Doc. 77 at 4.)

5 Accordingly, insofar as Petitioner has been granted relief in accordance with the Ninth  
6 Circuit's remand order, the Court hereby DIRECTS the Clerk of Court to close the case.

7  
8 IT IS SO ORDERED.

9 Dated: October 4, 2022

  
\_\_\_\_\_  
SENIOR DISTRICT JUDGE