

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL ETCHINSON,) 1:10-CV-02265 LJO GSA HC
Petitioner,) ORDER VACATING ORDER DIRECTING
v.) RESPONDENT TO FILE A RESPONSE
J. D. HARTLEY, Warden,) ISSUED ON JANUARY 4, 2011
Respondent.) [Doc. #6]

Petitioner is a state prisoner proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On December 6, 2010, Petitioner filed the instant petition for writ of habeas corpus. On January 4, 2011, this Court issued an Order directing Respondent to file a response to the petition.

On January 24, 2011, the Supreme Court issued its opinion in Swarthout v. Cooke, ___ U.S. ___, ___ S.Ct. ___, 2011 WL 197627 (Jan. 24, 2011) (per curiam). This decision renders the claims presented in the petition noncognizable for purposes of federal habeas review.

Accordingly, the January 4, 2011, Order to Respond is HEREBY VACATED. Briefing in this matter is suspended pending further action by the Court.

IT IS SO ORDERED.

Dated: January 25, 2011

/s/ **Gary S. Austin**
UNITED STATES MAGISTRATE JUDGE