

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

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVEN H. CASWELL,

Petitioner,

No. CIV S-91-1079 FCD EFB P

vs.

ARTHUR CALDERON,

Respondent.

ORDER

_____/

Petitioner is a state prisoner proceeding through counsel with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On December 10, 2010, findings and recommendations were issued which recommended that petitioner’s application be granted and that respondent be directed to release petitioner within thirty days unless a new parole suitability hearing was held in accordance with due process. On December 23, 2010, petitioner filed objections to these findings and recommendations. On December 24, 2010, respondent filed objections. On January 24, 2011, the United States Supreme Court issued *Swarthout v. Cooke*, 562 U.S. ____ (2011), No. 10-333, 2011 WL 197627, at *2 (Jan. 24, 2011). By minute order dated January 25, 2011, the district judge assigned to this case referred the pending findings and recommendations back to the undersigned for the issuance of amended findings and recommendations after consideration of *Cooke’s* applicability to the instant case. Good cause

1 appearing, the parties are directed to submit briefing addressing the applicability of *Cooke* to the
2 instant case. The parties shall take particular note of the footnote appearing on *3 of the *Cooke*
3 decision.

4 Accordingly, IT IS HEREBY ORDERED that, within thirty days from the date of this
5 order, petitioner and respondent shall file briefing addressing the applicability, if any, of
6 *Swarthout v. Cooke* to the instant case.

7 DATED: February 1, 2011.

8 
9 EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26