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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CHARLES H. CARR, No. 2:04-cv-00584-MCE-JFM HC  
Petitioner,  
v.  
D.K. SISTO,  
Respondent.

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CHARLES H. CARR, JR. No. 2:05-cv-01870-MCE-KJM HC  
Petitioner,  
v. **ORDER**  
JOANNE WOODFORD, BOB HOREL,  
Acting Warden,  
Respondents.

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CHARLES H. CARR, JR., No. 2:05-cv-01871-MCE-KJM HC  
Petitioner,  
v.  
BOB HOREL, Acting Warden,  
Respondent.

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2 On November 16, 2010, Respondents filed a Renewed  
3 Application to Stay this Court's March 18, 2009 Order in light of  
4 intervening authority and given its pending appeal of the Court's  
5 decision granting parole to the Ninth Circuit.

6 This Court initially granted a stay for sixty days given  
7 Respondent's appeal of its Order finding Petitioner suitable for  
8 parole so that Respondents could pursue their appeal. On May 26,  
9 2009, before that sixty day-period expired, Respondents sought  
10 for and obtained a stay from the Ninth Circuit itself. Then, on  
11 July 26, 2010, the Ninth Circuit granted Petitioner's motion to  
12 lift its stay of the Court's March 18, 2009. Subsequently,  
13 Petitioner was released on parole.

14 Respondents now ask the Court to again revisit the issue of  
15 parole despite the fact that the last two orders concerning  
16 parole have come from the Ninth Circuit and not from this Court.  
17 In light of the pending appeal and the issuance of those orders,  
18 Respondents have not demonstrated why this Court, as opposed to  
19 the Ninth Circuit, is the proper court for hearing any further  
20 challenge to the propriety of Petitioner's parole. Moreover, to  
21 the extent Respondents' challenge before this Court is predicated  
22 on intervening Ninth Circuit authority (namely, its decision in  
23 Haggard v. Curry, 623 F.3d 1035 (9th Cir. 2010), the holding of  
24 that case is now subject to an even more recent Supreme Court  
25 case, Swarthout v. Cooke, 131 S. Ct. 859 (decided January 24,  
26 2011). Indeed, Respondents have recognized that change by  
27 filing, on February 9, 2011, a Motion to Reinstate Stay with the  
28 Ninth Circuit itself, citing Swarthout.

