

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

JAMES KEES,

Petitioner,

v.

D.K. SISTO,

Warden, California State
Prison at Solano, Respondent.

No. 2:06–CV–01483–NRS

ORDER

Petitioner Kees is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Kees challenges the California Board of Parole Hearings's (the "Board's") refusal to set a date for his release on parole due to Governor Arnold Schwarzenegger's 2004 and 2006 reversals of the Board's grants of parole. After Kees's petition, the Ninth Circuit Court of Appeals granted rehearing en banc in *Hayward v. Marshall*, 512 F.3d 536 (9th Cir. 2008), *reh'g en banc granted*, 527 F.3d 797 (9th Cir. May 16, 2008), which may directly impact Kees's petition.

Accordingly, IT IS HEREBY ORDERED that, within twenty days of the date of this order, the parties shall show cause why this action should not be administratively stayed pending the Ninth Circuit's resolution in *Hayward*.

DATED: **February 19, 2009**

A handwritten signature in dark ink, appearing to read "N. Randy Smith". The signature is fluid and cursive, with the first name "N." being a single letter and the last name "Smith" being more fully written.

Honorable N. Randy Smith
Ninth Circuit Court of Appeals Judge