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

ROBERT LAUCELLA,

Petitioner,

No. CIV S-08-109 LKK CHS P

vs.

D.K. SISTO,

Respondents.

ORDER

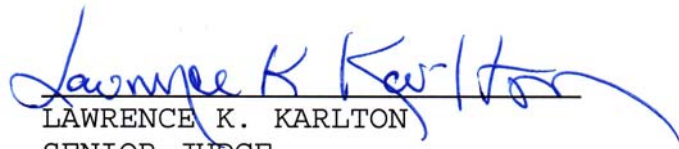
Petitioner, a state prisoner proceeding pro se, filed an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. His petition was granted in a final order dated February 8, 2010. Regrettably, the last paragraph of the court’s final order contained two significant clerical errors which petitioner has brought to the court’s attention in his motion for correction filed on February 17, 2010. The order at page two, line 11 reads “The findings and recommendations filed February 20, 2009 are adopted in full,” but should read “The findings and recommendations filed December 4, 2009 are adopted in full.” More importantly, lines 13-14 directed respondent “to release Saunders from custody in accordance with the August 14, 2002 decision of the Board of Prison Terms finding him suitable for parole.” Instead, the order should have directed respondent “to release Laucella from custody in accordance with the August 14, 2002 decision of the Board of Prison Terms finding him suitable for parole.”

1 Rule 60(a) of the Federal Rules of Civil Procedure provides for the correction of
2 clerical mistakes in a final order or judgment. After an appeal has been docketed and is pending
3 in an appellate court, however, such a mistake may be corrected only with leave from the
4 appellate court. Fed. R. Civ. P. 60(a). In this case, respondent filed a timely notice of appeal on
5 February 11, 2010 and the appeal has already been processed to the Ninth Circuit Court of
6 Appeals.

7 Accordingly, IT IS HEREBY ORDERED THAT

- 8 1. The court expresses its willingness to grant petitioner's February 17, 2010 motion
9 for correction of typographical errors pursuant to Fed. R. Civ. P. 60(a);
- 10 2. The court requests leave of the appellate court to do so; and
- 11 3. The Clerk of the Court is directed to serve a copy of this order on the Motions
12 Unit of the Ninth Circuit Court of Appeals.

13 DATED: February 25, 2010.

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16 LAWRENCE K. KARLTON
17 SENIOR JUDGE
18 UNITED STATES DISTRICT COURT
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