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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

vs.

D.K. SISTO, et al.,

Respondents.

ORDER

_____/

Petitioner Laucella, a state prisoner, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On February 8, 2010, this court granted the petition as to Laucella’s due process claim and entered judgment in his favor. Subsequently, the United States Supreme Court decided *Swarthout v. Cooke*, 131 S. Ct. 859 (2011), which foreclosed Laucella’s due process claim. Respondent successfully appealed and the United States Court of Appeals for the Ninth Circuit has reversed this court’s judgment in accordance with *Swarthout*. The Ninth Circuit’s judgment was entered May 13, 2011 and took effect on June 7, 2011.


For the foregoing reasons, IT IS HEREBY ORDERED THAT

1. The petition for writ of habeas corpus is denied.

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1 2. Because the Ninth Circuit's mandate forecloses Petitioner's constitutional claim, a
2 Certificate of Appealability will not issue. See 28 U.S.C. § 2253 (c) (2).

3 DATED: September 21, 2011.

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7 LAWRENCE K. KARLTON
8 SENIOR JUDGE
9 UNITED STATES DISTRICT COURT
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