

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

MICHAEL HUGHLEY,

Petitioner,

No. 2:08-cv-01573 KJM KJN P

vs.

DENNIS K. SISTO, Warden,

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner is a state prisoner proceeding without counsel with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner claims, inter alia, that his federal constitutional right to due process was violated by a 2006 decision of the California Board of Parole Hearings denying petitioner a parole date.

Although the parties have completed their briefing, respondent did not address petitioner’s procedural due process contentions. (See e.g. Dkt. No. 1 (Petition), at 13, 21-23; Dkt. No. 1 (Transcript), at 60-67; Dkt. No. 17 (Traverse) at 1-6.)<sup>1</sup> In light of the Supreme Court’s recent ruling in Swarthout v. Cooke, 562 U.S. \_\_\_\_ (2011), No. 10-333, 2011 WL 197627

\_\_\_\_\_ <sup>1</sup> Page references are to the court’s electronic pagination. The cited pages are not intended to be exhaustive.

1 (Jan. 24, 2011), which held that federal due process protects an inmate's right to procedural  
2 safeguards in a state parole proceeding, further briefing is required before the court can rule on  
3 the merits of the petition.

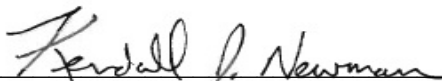
4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Respondent shall, within twenty-one days after the filing date of this order, file  
6 and serve a Supplemental Answer addressing petitioner's procedural due process contentions and  
7 the application of Swarthout v. Cooke; and

8 2. Petitioner may, within fourteen days after service of respondent's  
9 Supplemental Answer, file and serve a Supplemental Traverse that addresses the same matters.

10 SO ORDERED.

11 DATED: February 14, 2011

12  
13   
14 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

15 hugh1573.fb  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26