

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

**JEFFRY IAN COOK,**

Petitioner,

v.

**D.K. SISTO, Warden,**

Respondent.

No. 2:08-cv-02025-AK

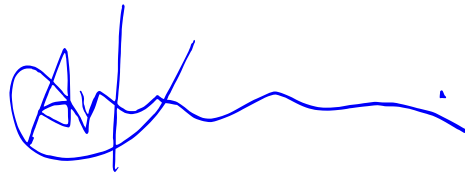
**ORDER**

The Supreme Court has now superseded the Ninth Circuit cases supporting Cook's habeas petition. See Swarthout v. Cooke, No. 10-333, 2011 WL 197627 (U.S. Jan. 24, 2011) (per curiam). It explained that the federal courts may not review whether a California court correctly applied the state's "some evidence" standard. Id. at \*3. Our review is therefore limited to determining whether the parole candidate was "allowed an opportunity to be heard" and "provided a statement of the reasons why parole was denied." Id. at \*2. Cook received both. Because Cook hasn't raised any other claims, his petition is **DENIED**.

In light of Swarthout, no reasonable jurist would find my ruling debatable or wrong. Cook therefore isn't entitled to a certificate of appealability. See 28 U.S.C. § 2253(c); Slack v. McDaniel, 529 U.S. 473, 484 (2000). Cook's motion

for an evidentiary hearing (docket entry 28) and motion for appointment of counsel (docket entry 29) are also **DENIED**. The briefing order of January 5, 2011 (docket entry 27) is vacated.

January 26, 2011



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**ALEX KOZINSKI**  
Chief Circuit Judge  
Sitting by designation