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

MICHAEL DUBOV,

Petitioner,

No. 2:10-cv-3288 GEB KJN P

vs.

GARY SWARTHOUT, Warden,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding with counsel with an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges a 2009 decision of the Board of Parole Hearings denying petitioner parole. Respondent has answered the petition. Petitioner now seeks leave to file an amended petition in light of the Supreme Court’s recent ruling in Swarthout v. Cooke, 562 U.S. ____ (2011), No. 10-333, 2011 WL 197627 (Jan. 24, 2011).

For good cause shown, IT IS HEREBY ORDERED that:

1. Petitioner’s motion for leave to file an amended petition for writ of habeas corpus (Dkt. No. 12) is granted;

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1 2. Petitioner is granted thirty days after the filing date of this order to file and
2 serve an amended petition for writ of habeas corpus, or seek voluntary dismissal of this action;¹


3 3. Should petitioner file an amended petition for writ of habeas corpus,
4 respondent shall, within twenty-one days thereafter, file and serve a response (answer or motion);
5 and

6 4. Petitioner’s reply or opposition shall be filed and served within fourteen days
7 after service of the response.

8 SO ORDERED.

9 DATED: February 17, 2011

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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25 ¹ Petitioner is reminded that federal habeas claims must first be fully exhausted in the state
26 courts. Rose v. Lundy, 455 U.S. 509 (1982). Petitioner (and respondent) may, in their amended
pleadings, incorporate by reference exhibits already on file.