

United States District Court  
For the Northern District of California

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

RALPH INTERNATIONAL THOMAS,

No. C 93-0616 MHP

Petitioner,

v.

ORDER RE PETITIONER'S MOTION FOR  
PARTIAL JUDGMENT ON THE  
PLEADINGS REGARDING PROCEDURAL  
DEFAULT DEFENSE

ROBERT K. WONG, Acting Warden of  
California State Prison at San Quentin,

Respondent.

On October 7, 2008, petitioner filed a Motion For Partial Judgment On The Pleadings Regarding Procedural Default Defense, alleging that he was entitled to judgment as a matter of law with regard to the respondent's procedural default defense relating to claims 3, 4, 9 and 11. On January 22, 2009, respondent filed a Notice Of Withdrawal Of Procedural Default Defense, conceding that at the time that petitioner filed his state exhaustion petition, California's timeliness rule was not independent of federal law and withdrawing his allegations of default in relation to claims 3, 4, 9 and 11.

In light of respondent's withdrawal of his procedural default defense, the court denies petitioner's motion as moot.

IT IS SO ORDERED.

DATED: April 7, 2009

  
Marilyn Hall Patel  
United States District Judge