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 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION

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 14 **JOSEPH P. GUTIERREZ,**
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 17 **BOARD OF PRISON TERMS**
COMMISSIONERS; A. P. KANE, Warden,
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Petitioner,
 v.
 Respondent.

C 05-01537 SI
**STIPULATED ORDER RE: VACATING
 CASE MANAGEMENT CONFERENCE,
 SETTING A BRIEFING SCHEDULE**

Judge The Honorable Susan Illston

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 21 On July 21, 2010, the Ninth Circuit issued a memorandum vacating this Court’s judgment
 22 denying Petitioner Joseph Gutierrez’s Petition for Writ of Habeas Corpus “insofar as the district
 23 court concluded that ‘some evidence’” supported the Board of Parole Hearings’ (Board) denial of
 24 parole at Gutierrez’s September 25, 2003 parole consideration hearing. (Clerk’s Docket (CD)
 25 25.) The Ninth Circuit remanded the matter to this Court because it “did not have the benefit” of
 26 the Ninth Circuit’s en banc opinion in *Hayward v. Marshall*, 603 F.3d 546 (9th Cir. 2010) at the
 27 time of its decision. (*Id.* at 2.) This Court appointed counsel and set a case management
 28 conference for November 1, 2010. (CD 30, 32.)

1 The parties stipulate, subject to the Court's approval, that the November 1, 2010 case
2 management conference is unnecessary, and agree to the following briefing schedule:

3 Respondent's Answer is due December 31, 2010.

4 Petitioner's Traverse is due February 7, 2011.

5 SO STIPULATED.

6

7 Dated: October 26, 2010

/s/ Shawn Halbert

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Shawn Halbert
Assistant Federal Public Defender
Attorney for Petitioner

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10 Dated: October 26, 2010

/s/ Patricia W. Heim

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Patricia W. Heim
Deputy Attorney General
Attorney for Respondent

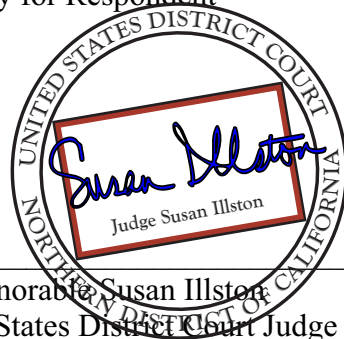
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14 IT IS SO ORDERED.

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16 Dated: 11/01/10



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The Honorable Susan Illston
United States District Court Judge

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