

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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4
 5 RON MOSLEY,
 6 Petitioner,
 7 v.
 8 MICHAEL MARTEL,¹
 9 Respondent.

NO. C09-1749 TEH
ORDER STAYING CASES

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 11 RON MOSLEY,
 12 Petitioner,
 13 v.
 14 MICHAEL MARTEL,
 15 Respondent.

NO. C10-4907 TEH

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 17 In these cases, Petitioner Ron Mosley challenges denials of parole by the Board of
 18 Parole Hearings in 2007 and 2008. In a related case, Case No. C05-4260 TEH, Mosley
 19 challenges the Governor's reversal of the Board's grant of parole in 2005. The 2005 case is
 20 currently on appeal to the United States Court of Appeals for the Ninth Circuit, and Mosley
 21 remains released on bail under supervision of this district's Office of Pretrial Services
 22 pending that appeal.

23 The Court agrees with Mosley that it is appropriate to stay these cases until after his
 24 appeal of the 2005 case has been decided on the merits. If the Court of Appeals decides that
 25 Mosley should have been released in 2005, then these cases will be moot. In addition,
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 28 ¹Michael Martel, acting warden at San Quentin State Prison, the facility from which
 Petitioner is currently released on bail, is hereby substituted as Respondent in these cases
 pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

1 Mosley acknowledges that the only relief available to him in these cases is a new parole
2 hearing, which Respondent argues cannot occur as long as Mosley remains released on bail
3 pending a decision in the 2005 case.

4 The Court further agrees that Respondent should have an opportunity to submit a
5 revised answer in light of the Supreme Court's decision in *Swarthout v. Cooke*, 131 S. Ct.
6 859, 862 (2011) (per curiam), and any other relevant new authority.

7 Accordingly, with good cause appearing, IT IS HEREBY ORDERED that these cases
8 are STAYED pending resolution by the Court of Appeals of Mosley's challenge to the
9 Governor's reversal of the Board's 2005 grant of parole. Within fourteen days of the
10 issuance of the mandate in those cases, Nos. 08-15327 and 08-15389, the parties shall meet
11 and confer and file stipulated briefing schedules in these cases or, alternatively, stipulations
12 to dismiss on mootness grounds.

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14 **IT IS SO ORDERED.**

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16 Dated: 07/14/11



THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT

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