

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

ERIC WARREN GREEN,)
)
Petitioner,)
v.)
A. A. LAMARQUE, Warden,)
)
Respondent.)
_____)

No. C 02-0923 SBA (PR)

ORDER

Petitioner Eric Warren Green, a state prisoner, filed a petition for a writ of habeas corpus challenging the validity of his state conviction and sentence for assault with a deadly weapon. He was sentenced to a stipulated term of thirty years to life. The Court denied the petition on the merits. Petitioner appealed the Court's denial of his petition. The Court granted a certificate of appealability as to Petitioner's claim that the reasons given by the prosecutor in his state case for challenging two prospective jurors were not credible and the trial court's determination that the challenges were not racially biased was not supported by the record, in violation of the United States Constitution as set forth in Batson v. Kentucky, 476 U.S. 79 (1986). A certificate of appealability was denied as to Petitioner's remaining claims.

The Ninth Circuit Court of Appeals reviewed this Court's decision to deny the petition. This Court's judgment was reversed and remanded in an opinion filed on July 17, 2008. The Ninth Circuit then issued an order and an amended opinion on August 4, 2008. In its August 4, 2008 amended opinion, the Ninth Circuit ordered this Court "to grant the petition for writ of habeas corpus if the State of California does not grant Green a new trial within 180 days of the filing date of this order." Green v. Lamarque, 532 F.3d 1028, 1030, 1033 (9th Cir. 2008). On August 26, 2008, the Ninth Circuit mandate was issued.

On February 10, 2009, Alameda County Deputy District Attorney John J. Brouhard provided the Court with a declaration regarding the outcome of Petitioner's state criminal case. On January 5, 2009, Petitioner's case was transferred to Alameda County Superior Court for re-trial. (Brouhard

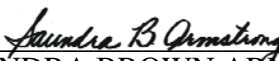
1 Feb. 10, 2009 Decl. ¶ 2.) On January 6, 2009, Petitioner waived his right to a jury trial and entered
2 into a negotiated disposition of the case. (Id. ¶ 3.) The negotiated disposition included a nineteen-
3 year state prison sentence. (Id.) Petitioner was scheduled to be sentenced on March 20, 2009. (Id.)

4 On March 26, 2009, Deputy District Attorney Brouhard provided the Court with another
5 declaration regarding the conclusion of the proceedings in Petitioner's state criminal case. On March
6 20, 2009, Petitioner was sentenced to nineteen years in state prison. (Brouhard Mar. 26, 2009 Decl.
7 ¶¶ 2-3.)

8 For the foregoing reasons, there is no need to order further action in this matter because
9 Petitioner's state criminal proceedings have concluded.

10 IT IS SO ORDERED.

11 DATED:3/31/08


SAUNDRA BROWN ARMSTRONG
United States District Judge

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