

1                                    IN THE UNITED STATES DISTRICT COURT  
2  
3                                    FOR THE NORTHERN DISTRICT OF CALIFORNIA

4 PAUL TASH,

No. C 05-2417 CW (PR)

5                                    Petitioner,

AMENDED JUDGMENT

6                                    v.

7 BEN CURRY, Warden,

8                                    Respondent.

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10                                    Petitioner, a state prisoner, filed a petition for a writ of  
11 habeas corpus pursuant to 28 U.S.C. § 2254 based upon Governor  
12 Arnold Schwarzenegger's 2004 reversal of the decision by the Board  
13 of Parole Hearings finding Petitioner suitable for parole. The  
14 Court granted the petition and remanded this case to the Governor  
15 to vacate his reversal and to re-evaluate Petitioner's suitability  
16 for parole. In its analysis, the Court relied upon a number of  
17 Ninth Circuit Court of Appeals cases to conclude, "In light of the  
18 extensive evidence of Petitioner's in-prison rehabilitation and  
19 exemplary behavior, the reliance on the unchanging facts of the  
20 murder to deny Petitioner parole for the tenth time -- twenty-two  
21 years into his minimum seventeen year sentence -- violated his  
22 right to due process." (Aug. 27, 2008 Order at 23.) Respondent  
23 timely appealed to the Ninth Circuit.

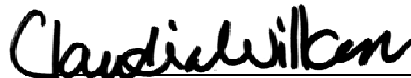
24                                    On February 1, 2011, the Ninth Circuit reversed the decision  
25 of the district court by relying on Swarthout v. Cooke, \_\_\_ U.S.  
26 \_\_\_, 131 S. Ct. 859, 863 (2011), and stating that the "Supreme  
27 Court recently held that although California might create a liberty  
28 interest in parole through its 'some evidence' standard, federal

1 courts are limited on habeas to a review of the process that the  
2 petitioner received." Tash v. Curry, No. 08-17150, slip op. at 2  
3 (9th Cir. Feb. 1, 2011). The Ninth Circuit concluded, "Because  
4 Tash was afforded constitutionally adequate process, his petition  
5 should have been denied." Id. at 3. The mandate of the Ninth  
6 Circuit issued on February 23, 2011.

7 Pursuant to the Ninth Circuit memorandum opinion and mandate,  
8 the Court issues this Amended Judgment. The judgment entered on  
9 August 27, 2008 is VACATED. Accordingly, the petition for a writ  
10 of habeas corpus is DENIED. The Clerk of the Court shall close the  
11 file.

12 IT IS SO ORDERED.

13 DATED: 3/4/2011



14 CLAUDIA WILKEN  
15 United States District Judge  
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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 TASH,

5 Plaintiff,

Case Number: CV05-02417 CW

6 v.

7 KANE et al,

8 Defendant.

**CERTIFICATE OF SERVICE**

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
10 Court, Northern District of California.

11 That on March 4, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said  
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
14 located in the Clerk's office.

15 Paul R. Tash C-73850  
16 P.O. Box 689  
17 Soledad, CA 93960-0689

Dated: March 4, 2011

Richard W. Wieking, Clerk  
By: Nikki Riley, Deputy Clerk

United States District Court  
For the Northern District of California