

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

3
4 KEITH HOLDER,

No. C 08-2572 CW (PR)

5 Petitioner,

ORDER SCHEDULING BRIEFING ON
PETITIONER'S POST-REMAND
REQUEST FOR RELEASE

6 v.

7 BEN CURRY, Warden,

8 Respondent.
9 _____/

10 In an Order filed August 6, 2010, the Court granted
11 Petitioner's pro se petition for a writ of habeas corpus under 28
12 U.S.C. § 2254 challenging the October 26, 2006 decision of the
13 California Board of Parole Hearings (BPH) to deny him parole. In
14 particular, the Court ordered the BPH to "set a parole date for
15 Petitioner unless it finds new evidence, arising after the 2006
16 hearing, of current dangerousness." (Docket No. 9 at 25.)

17 On September 3, 2010, the Court granted Respondent's request
18 for a temporary stay of the Court's Order to allow Respondent time
19 to seek a stay in the Ninth Circuit. On November 30, 2010, the
20 Ninth Circuit stayed the Court's Order pending appeal.

21 On May 10, 2011, the Ninth Circuit granted Petitioner's motion
22 to dismiss the appeal as moot, vacated the Court's judgment and
23 remanded to this Court "for further proceedings consistent with this
24 order." (Docket No. 22 at 1.)

25 On May 16, 2011, Petitioner filed a "Post-Remand Request for
26 Immediate Release," in which he argues he is entitled to release
27 from custody because the BPH held a new hearing on September 2,
28 2010, i.e., before this Court entered the temporary stay, and

1 granted Petitioner a parole date. Thus, Petitioner argues, the
2 Ninth Circuit's dismissal of Respondent's appeal as moot entitles
3 Petitioner to release on parole.

4 Good cause appearing, the following briefing schedule is HEREBY
5 SET on Petitioner's request:

6 Respondent shall file a response to Petitioner's request no
7 later than fourteen (14) days from the date of this Order.

8 Petitioner shall file a reply to the response no later than
9 seven (7) days from the date the response is filed.

10 IT IS SO ORDERED.

11 Dated: 5/24/2011

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14 CLAUDIA WILKEN
15 United States District Judge

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