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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GARY SMITH, No. C 09-00097 CW (PR)
Petitioner, ORDER REQUESTING SUPPLEMENTAL
v. BRIEFING
BEN CURRY, Warden,
Respondent.

A recent en banc decision from the Ninth Circuit, Hayward v. Marshall, No. 06-55392, 2010 WL 1664977 (9th Cir. Apr. 22, 2010) (en banc), addressed important issues relating to federal habeas review of Board of Parole Hearings (BPH) decisions denying parole to California state prisoners. Therefore, the Court will provide each party an opportunity to submit a supplemental brief (not to exceed ten (10) pages in length) explaining his views of how the Hayward en banc decision applies to the facts presented in Petitioner's challenge to BPH's decision denying him parole.

The Court sets the following schedule:

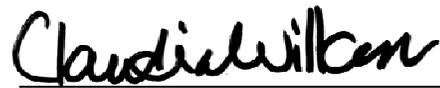
1. No later than ten (10) days from the date of this Order, Respondent must send to Petitioner a copy of the Hayward en banc decision.

1 2. No later than thirty (30) days from the date of this
2 Order, Respondent must file and serve any supplemental brief
3 applying Hayward to the facts presented in Petitioner's case.

4 3. No later than thirty (30) days after the date
5 Respondent's supplemental brief is filed, Petitioner must file and
6 serve any supplemental brief applying Hayward to the facts
7 presented in his case.

8 IT IS SO ORDERED.

9 Dated: 5/21/2010



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

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

4 GARY SMITH,

5 Plaintiff,

6 v.

7 BEN CURRY et al,

8 Defendant.

Case Number: CV09-00097 CW

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 May 21, 2010, 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
13 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
14 receptacle located in the Clerk's office.

15 Gary Smith D-39109
16 1-246 Up
17 CSP- Solano
18 P.O. Box 4000
19 Vacaville, CA 95696-4000

20 Dated: May 21, 2010

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