

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Robert Lee Griffin,

NO. C 98-21038 JW

Petitioner,

v.

James Gomez, et al.,

Respondents.

**ORDER REFERRING MATTER TO
MAGISTRATE JUDGE NANDOR VADAS
FOR REPORT AND
RECOMMENDATION; DENYING
CERTIFICATE OF APPEALABILITY**

On June 6, 2006, the Court granted Robert Lee Griffin's ("Petitioner") petition for writ of habeas corpus. (hereafter, "June 6 Order," Docket Item No. 120.) On July 10, 2009, the Court adopted Magistrate Judge Nandor Vadas' Report and Recommendation, finding that Respondents failed to comply with the June 6, 2006 Order, and ordered Respondents to place Petitioner in less restrictive housing. (hereafter, "July 10 Order," Docket Item No. 168.) The Court also ordered the parties to provide a status update notifying the Court of Respondents' compliance with the July 10 Order. (*Id.* at 3.)

On July 30, 2009, the parties filed their Status Report, stating:

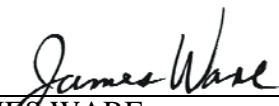
The parties agree that Petitioner Robert Griffin was transferred from the Administrative Segregation Unit (ASU) at Pelican Bay State Prison to the Security Housing Unit (SHU) at California State Prison, Corcoran on May 26, 2009. The parties disagree as to whether this transfer violates the Court's July 10, 2009 order.

(Docket Item No. 170.) Respondent contends that the Corcoran SHU is substantially less restrictive than the Pelican Bay SHU, and that it does not present the Eight Amendment concerns at issue in the Court's June 6 Order granting habeas relief.

1 The Court finds that the parties' dispute would be best resolved by the Court referring the
2 matter to Judge Vadas for a determination as to whether Respondents have violated the Court's July
3 10 Order. Accordingly, the Court refers this matter to Judge Vadas for a report and recommendation
4 with respect to whether the change in circumstances, as referenced in Respondents' report, have
5 rendered the Court's July 10 Order moot. Judge Vadas shall have the full authority to conduct a
6 factual investigation of Petitioner's housing status.

7 The Court requests that Judge Vadas issue his Report and Recommendation within 60 days,
8 to the extent it is feasible to do so and it does not impede his other duties.

9
10 Dated: November 20, 2009



JAMES WARE
United States District Judge

THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

Jennifer Anne Neill jennifer.neill@doj.ca.gov
Morris Lenk morris.lenk@doj.ca.gov
Pamela Jo Griffin pgriffin6@cox.net
Robert Christian Cross robert.cross@doj.ca.gov

Dated: November 20, 2009

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy