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E-FILED on 1/29/10

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

ROCKY RYAN HUNT,
Petitioner,
v.
A.A. LAMARQUE, Warden,
Respondent.

No. C-04-03925 RMW
ORDER PERMITTING FURTHER
BRIEFING
[Re Docket No. 30]

Petitioner Rocky Ryan Hunt moves for leave to amend his petition to assert additional claims that have recently been exhausted. In the original motion, petitioner argued for leave to amend based on a relation-back theory. In the reply, however, petitioner raised a new argument, contending that petitioner's new claims should be allowed based on the gateway standard set forth in *Schlup v. Delo*, 513 U.S. 298 (1995). Because respondent has not had the opportunity to address this argument, the court invites respondent to submit briefing on this issue. Respondent shall have 30 days to submit a sur-reply of no more than 15 pages. If respondent files such a sur-reply, petitioner may file a response of no more than 10 pages within 15 days of receipt of the sur-reply.

DATED: 1/29/10


RONALD M. WHYTE
United States District Judge

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8 Counsel are responsible for distributing copies of this document to co-counsel that have not registered
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11 **Dated:** 1/29/10

CCL
Chambers of Judge Whyte

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