

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ROBERT MENDOZA,

Petitioner,

V.

ROBERT J. HERNANDEZ,

Respondent.

Civil No. 05-CV-1938-L(NLS)

**ORDER DENYING THE PETITION
FOR WRIT OF HABEAS CORPUS
[doc. #1]; and DIRECTING ENTRY
OF JUDGMENT**

Petitioner Robert Mendoza filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. On April 29, 2008, the Court granted the petition. Respondent appealed the Order.

The Supreme Court addressed the issue raised in petitioner’s petition in *Swarthout v. Cooke*, 131 S. Ct. 859 (2011). The Ninth Circuit, in reviewing the present case, noted that this court did not have the benefit of the *Swarthout* case or a subsequent Ninth Circuit case, *Pearson v. Muntz*, 2011 WL 1238007 (9th Cir. 2011), which compel the denial of Mendoza’s petition. Accordingly, the Ninth Circuit reversed the decision of this court. The mandate from the Ninth Circuit was filed on June 8, 2011.

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1 Based on the foregoing, **IT IS ORDERED** denying the petition for writ of habeas corpus
2 [doc. #1]. **IT IS FURTHER ORDERED** directing the Clerk of the Court to enter judgment in
3 accordance with this Order.

4 **IT IS SO ORDERED.**

5 DATED: June 13, 2011

6 
7 M. James Lorenz
United States District Court Judge

8 COPY TO:

9 HON. NITA L. STORMES
10 UNITED STATES MAGISTRATE JUDGE

11 ALL PARTIES/COUNSEL
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