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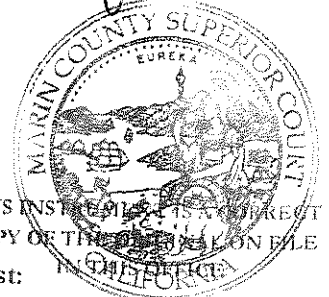
8 Attorneys for Respondent  
9 SF2004400636

FILED

MAR 23<sup>rd</sup> 2006

COURT EXECUTIVE OFFICER  
MARIN COUNTY SUPERIOR COURT  
BY: J. CHEN, DEPUTY

*J. Chen*



APR 06 2006

11 SUPERIOR COURT OF CALIFORNIA  
12 COUNTY OF MARIN

Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
BY: T. GARDNER, DEPUTY

*T. Gardner*

15 In re

No. SC135399A

16 JERRY RUTHERFORD (C-19059),

STIPULATED PROCEDURES

17 Petitioner,

18 **On Habeas Corpus.**

19 1. For all policies, procedures, forms, and plans developed under this Order, the  
20 parties shall use the following process: Respondents shall meet periodically with Petitioners'  
21 counsel to discuss their development of policies, procedures, forms, and plans. In preparation for  
22 such meetings, Respondents will provide Petitioners' counsel with copies of the proposed  
23 policies, procedures, forms, and plans in draft form no later than 21 days before the meeting. If  
24 the petitioners do not agree with any element of the policy, procedure, form, or plan, they may  
25 seek further orders from the court and ask the court to hear the matter on shortened time.

26 2. The California Department of Corrections and Rehabilitation (CDCR) and the  
27 Board of Parole Hearings (BPH) shall develop and implement Policies and Procedures that will  
28 ensure continuous compliance with all of the requirements of the attached Remedial Plan.

1 Respondent shall submit the completed Policies and Procedures to the Court no later than 180  
2 days after the approval of the remedial plan.

3 3. The parties shall cooperate so that the Petitioners' counsel has access to the  
4 information reasonably necessary to monitor Respondent's compliance with this Order and the  
5 Policies and Procedures adopted in response thereto.

6 4. BPH shall provide Petitioners' counsel with monthly reports from existing data  
7 bases and the Lifer Scheduling and Tracking System when operational, including the number of  
8 inmates in the backlog, and the reasons for any canceled hearings.

9 5. The parties shall meet regularly, at least once every 90 days, to discuss  
10 implementation issues.

11 6. At least once every 90 days, Respondents shall provide the Court and Petitioners'  
12 counsel with a progress report on compliance with this court order/remedial plan.

13 7. The parties shall agree on a mechanism for promptly addressing concerns raised  
14 by Petitioner's counsel regarding individual class members and emergencies.

15 8. The Court shall retain jurisdiction to enforce the terms of this Order. The Court  
16 shall have the power to enforce the terms of this Order through specific performance and all other  
17 remedies permitted by law or equity.

18 9. If at any time Petitioners' counsel asserts that Respondents are not making  
19 significant and steady progress in reducing the backlog, or are not complying with any of the acts  
20 required by this Order, the Remedial Plan, or Policies and Procedures produced pursuant to it,  
21 they shall notify the Respondents in writing of the facts supporting their belief. Respondents  
22 shall investigate the allegations and respond in writing within 30 days. If Petitioners' counsel is  
23 not satisfied with Respondents' response, the parties shall conduct negotiations to resolve the  
24 issue(s). If the parties are unable to resolve the issue(s) satisfactorily, Petitioners may move the  
25 Court for any relief permitted by law or equity.

26 10. When the backlog has been reduced to not more than five percent (05%) of the  
27 monthly hearings and remains at that level or less continuously for 12 consecutive months,  
28 Respondents will be considered in compliance with this remedial plan and this Court will order

1 this matter dismissed.

2           11. Respondent may modify the Policies and Procedures at any time, provided that as  
3 modified the Policies and Procedures will advance the goal of providing timely hearings.  
4 Respondent will provide Petitioners' counsel with a copy of the original Policies and Procedures,  
5 the modified version, and a strikeout version with the changes 30 days before implementation.  
6 Petitioners shall have 30 days from the time they receive the changes to meet and confer with  
7 Respondent. Petitioners shall file objections, if any, through a regularly noticed motion within  
8 30 days from the end of the meet and confer process. Respondents may not implement any  
9 policy or procedure in dispute until the Court rules on it, but may require that petitioner's counsel  
10 comply with an expedited briefing schedule if necessary.

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1 IT IS SO STIPULATED.

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DONALD SPECTER  
KEITH WATTLEY  
PRISON LAW OFFICE

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5 Dated: 3/22/06

By:   
KEITH WATTLEY  
Counsel for Petitioner

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7

BILL LOCKYER  
ATTORNEY GENERAL'S OFFICE

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10 Dated: 3/22/06

By:   
ANYA M. EDSACCA  
Counsel for Respondents

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DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION

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16 Dated: \_\_\_\_\_

By: \_\_\_\_\_  
JEANNE WOODFORD  
Acting Secretary

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1 IT IS SO STIPULATED.

2 DONALD SPECTER  
3 KEITH WATTLEY  
4 PRISON LAW OFFICE

5 Dated: \_\_\_\_\_

6 By: \_\_\_\_\_  
7 KEITH WATTLEY  
8 Counsel for Petitioner


9 BILL LOCKYER  
10 ATTORNEY GENERAL'S OFFICE

11 Dated: 3/22/06

12 By:   
13 ANYA M. ED SACCA  
14 Counsel for Respondents

15 DEPARTMENT OF  
16 CORRECTIONS AND  
17 REHABILITATION

18 Dated: 3-22-06

19 By:   
20 JEANNE WOODFORD  
21 Acting Secretary

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**ORDER**

The Court adopts the parties' Stipulation and orders the California Department of Corrections and Rehabilitation to comply with the terms stated above.

**IT IS SO ORDERED.**

Dated: 02-23-04

Verna A. Adams  
VERNA A. ADAMS  
Superior Court Judge

## **REMEDIAL PLAN**

### **I.           INTRODUCTION**

1.       Petitioner filed this action on May 26, 2004.
2.       The Court certified the class on November 29, 2004.
3.       On April 8, 2005, the parties stipulated that respondent was not providing timely parole consideration hearings as required by the Penal Code.
4.       On February 15, 2006 the Court granted the petition.

### **II.           PARTIES**

5.       The petitioner class consists of all prisoners serving indeterminate terms of life with the possibility of parole who have approached or exceeded their minimum eligible parole dates without receiving their parole consideration hearings within the times required by Penal Code sections 3041 and 3041.5.

6.       The named respondent is the Acting Warden of San Quentin State Prison. However for purposes of this case, which affects and involves actions of the Department of Corrections and Rehabilitation (CDCR), the proper respondent under Penal Code sections 1474 and 1477 is the Acting Secretary of CDCR, Jeanne Woodford.

### **III.           TERMS**

7.       CDCR shall develop and implement a statewide networked scheduling and tracking system (known as the Lifer Scheduling and Tracking System) for parole suitability hearings conducted pursuant to sections 3041 and 3041.5 of the Penal Code. The development of the aforementioned statewide networked lifer scheduling and tracking system shall begin with a Feasibility Study Report (FSR). The time for completion of the System will be determined by further order of the Court.

8. In August of 2005, the backlog of life parole suitability hearings was identified as approximately 3200 cases. The Board of Parole Hearings shall eliminate the backlog of parole suitability hearings within 18 months of the court's approval of the Remedial Plan. "Backlog" shall mean the group of inmates who have not received an initial or subsequent parole consideration hearing as required by Penal Code sections 3041 and 3041.5, excluding inmates who choose to forego or postpone their hearings, from the date the order is entered and forward.

9. CDCR shall maintain sufficient staffing levels and resources to meet all of the obligations of this Order.

10. BPH shall make attorney appointments for parole suitability hearings at least 120 days in advance of an inmate's scheduled suitability hearings. The time for implementing this change will be determined by further order of the Court.

11. CDCR shall make the final Board Packets, including Psychological Evaluations, available to the inmate and the inmate's attorney at least 60 days prior to the inmates scheduled parole suitability hearing. The time for implementing this change will be determined by further order of the Court.



STATE OF CALIFORNIA )  
COUNTY OF MARIN )

IN RE **JERRY RUTHERFORD**

ACTION NO.: **SC135399A**

(PROOF OF SERVICE BY MAIL – 1013A, 2015.5 C.C.P.)


I AM AN EMPLOYEE OF THE SUPERIOR COURT OF MARIN; I AM OVER THE AGE OF EIGHTEEN YEARS AND NOT A PARTY TO THE WITHIN ABOVE-ENTITLED ACTION; MY BUSINESS ADDRESS IS CIVIC CENTER, HALL OF JUSTICE, SAN RAFAEL, CA 94903. ON **April 6, 2006** I SERVED THE WITHIN ***CERTIFIED COPY OF STIPULATED PROCEDURES*** IN SAID ACTION TO ALL INTERESTED PARTIES, BY PLACING A TRUE COPY THEREOF ENCLOSED IN A SEALED ENVELOPE WITH POSTAGE THEREON FULLY PREPAID, IN THE UNITED STATES POST OFFICE MAIL BOX AT SAN RAFAEL, CA ADDRESSED AS FOLLOWS:

	<b><i>ATTORNEY GENERAL DEPARTMENT OF JUSTICE ATT: CORRECTIONAL LAW SECTION 455 GOLDEN GATE AVENUE SUITE 11000 SAN FRANCISCO, CA 94102-7004</i></b>
<b><i>KEITH WATTLEY PRISON LAW OFFICE GENERAL DELIVERY SAN QUENTIN STATE PRISON SAN QUENTIN, CA 94964</i></b>	

*I CERTIFY (OR DECLARE), UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.*

DATE:

*4/6/06*

  
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