

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED
9:10 a.m.
FEB - 9 2004

CATHY A. GATTERSON, CLERK
U.S. COURT OF APPEALS

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|-------------------------------|---|--------------|
| KEVIN COOPER, |) | |
| |) | |
| Petitioner, |) | No. 04-70578 |
| |) | |
| v. |) | ORDER |
| |) | |
| JEANNE WOODFORD, Warden, |) | |
| San Quentin State Prison, San |) | |
| Quentin, California, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

Before: SCHROEDER, Chief Judge.

A judge of this Court called for en banc review of the February 8, 2004 order in this case. A majority of the non-recused active judges have voted in favor of en banc review of the denial of Cooper's application to file a successor petition for writ of habeas corpus in the district court. The published order filed February 8, 2004 shall not be cited as precedent by or to this court or any district of the Ninth Circuit, except to the extent adopted by the en banc court.

The motion for stay of execution is granted pending further order of the en banc court.