

**FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

MICHAEL DANIEL CUERO,  
*Petitioner-Appellant,*

v.

SCOTT KERNAN\*,  
*Respondent-Appellee.*

No. 12-55911

D.C. No.  
3:08-cv-02008-BTM-WMC

**ORDER**

On Remand from the Supreme Court of the United States

Filed September 19, 2018

Before: Diarmuid F. O'Scannlain, Barry G. Silverman,  
and Kim McLane Wardlaw, Circuit Judges.

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**ORDER**

In light of *Kernan v. Cuero*, 138 S. Ct. 4 (2017), we affirm the judgment of the district court.

**AFFIRMED.**

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\* Scott Kernan has been substituted for his predecessor, Matthew Cate, as Secretary, California Department of Corrections and Rehabilitation.