

# APPENDIX C



## **Cuero v. Kernan**

United States Court of Appeals for the Ninth Circuit

September 19, 2018, Filed

No. 12-55911

### **Reporter**

904 F.3d 865 \*; 2018 U.S. App. LEXIS 26643 \*\*; 2018 WL 4555490

MICHAEL DANIEL CUERO, Petitioner-Appellant, v. SCOTT KERNAN\*, Respondent-Appellee.

Attorney General (San Diego), San Diego, CA.

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

**Subsequent History:** Rehearing denied by Cuero v. Kernan, 2019 U.S. App. LEXIS 2773 (9th Cir., Jan. 28, 2019)

Stay denied by Cuero v. Kernan, 2019 U.S. App. LEXIS 3464 (9th Cir. Cal., Feb. 4, 2019)

**Prior History:** [\*\*1] On Remand from the Supreme Court of the United States. D.C. No. 3:08-cv-02008-BTM-WMC.

Cuero v. Cate, 2012 U.S. Dist. LEXIS 58563 (S.D. Cal., Apr. 25, 2012)

### **Opinion**

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[\*865] **ORDER**

In light of *Kernan v. Cuero*, 138 S. Ct. 4, 199 L. Ed. 2d 236 (2017), [\*866] we affirm the judgment of the district court.

**AFFIRMED.**

**Disposition:** AFFIRMED.

**Counsel:** For Michael Daniel Cuero, Petitioner - Appellant: Devin Burstein, Attorney, Warren & Burstein, San Diego, CA.

For Scott Kernan, Respondent - Appellee: Anthony Da Silva, Deputy Attorney General, Kevin Vienna, Supervising Deputy Attorney General, AGCA - Office of the

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