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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL IBARRA,

Petitioner,

v.

RAYMOND MADDEN, Warden,

Respondent.

Case No. CV 15-8460 AG (AFM)

**ORDER TO SHOW CAUSE**

On October 29, 2015, petitioner filed (through counsel) a Petition for Writ of Habeas Corpus by a Person in State Custody pursuant to 28 U.S.C. § 2254. On December 29, 2015, respondent filed a Motion to Dismiss the Petition on the basis that Ground Seven (ineffective assistance of counsel for failure to raise an Eighth Amendment objection during trial), was unexhausted. On January 6, 2016, petitioner filed an Opposition.

In the Motion to Dismiss, respondent contended that Ground Seven is unexhausted because it was not properly raised on every level of direct review, specifically, on appeal in the California Court of Appeal. Respondent's motion, however, failed to account for (1) the petition for rehearing that petitioner had filed

1 in the California Court of Appeal, and (2) the California Court of Appeal's  
2 modified opinion issued on March 12, 2015.

3 Accordingly, on February 19, 2016, the Court issued an order directing  
4 respondent, within 14 days of the date of the order, to lodge the documents  
5 referenced above **and to file a statement as to whether it continued to be his**  
6 **position that Ground Seven is unexhausted.** As of this date, more than 14 days  
7 later, respondent has only lodged the required documents. He has not filed the  
8 required statement as to whether it continues to be his position that Ground Seven is  
9 unexhausted.

10 Accordingly, respondent is ORDERED TO SHOW CAUSE within ten (10)  
11 days of the date of this Order why the Court should not sanction him monetarily for  
12 his failure to comply with the Court's order issued on February 19, 2016.  
13 Respondent may discharge this Order by filing, within (ten) 10 days of the date of  
14 this Order, a statement (with supporting legal authority) as to whether it continues  
15 to be his position that Ground Seven is unexhausted. Failure to timely comply with  
16 this Order will result in a further order requiring respondent's counsel to appear  
17 before the Court in person and to show cause why monetary sanctions should not be  
18 imposed for violation of Court orders.

19  
20 DATED: 3/9/2016



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22 ALEXANDER F. MacKINNON  
23 UNITED STATES MAGISTRATE JUDGE