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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

BETTY HANSEN,

Petitioner,

vs.

TINA HORNBEAK,

Respondent.

CASE NO. CV F 08-01697 LJO WMW HC

**ORDER REQUIRING RESPONDENT TO
FILE CALIFORNIA COURT OF APPEAL
OPINION**

On October 22, 2008, Betty Hansen (“Petitioner”), a *pro se* California prisoner, filed a Petition for Writ of Habeas Corpus by a Person in State Custody pursuant to 28 U.S.C. § 2254 (“Petition”) in this Court¹ challenging the denial of parole in 2007, amongst other claims. On March 17, 2009, Tina Hornbeak (“Respondent”) filed an Answer to the Petition. On April 3, 2009, Petitioner filed a Traverse to the Answer.

Rule 5(d)(3) of the Rules Governing Section 2254 Cases in the United States District Courts states that the “respondent must also file with the answer a copy of . . . the opinions and dispositive orders of the appellate court relating to the conviction or the sentence.” 28 U.S.C. § 2254 R. 5(d)(3).

¹ At the time of filing the Petition, Petitioner was incarcerated at Valley State Prison for Women in Chowchilla, California. (Pet. 1.) Chowchilla is in Madera County, located within the jurisdictional boundaries of the United States District Court for the Eastern District of California. 28 U.S.C. § 84(b). The Petition is properly filed in this Court, located in the district that Petitioner was in custody at the time of filing the Petition. *See* 28 U.S.C. § 2241(d).

1 Here, although Petitioner is not challenging her conviction or sentence, the facts utilized by the parole
2 board in denying parole were “incorporate[d] by reference [to] the facts of the crime as set forth in the
3 Court of Appeals, State of California, Fifth Appellate District document.” (Pet. 28; *see also id.* 125.)²
4 It appears that the parole board did not read into the record the facts incorporated by reference. In
5 addition, neither Respondent nor Petitioner included the California Court of Appeal opinion on direct
6 review in their briefing.

7 **ORDER**

8 Accordingly, to assist the Court in ruling on the Petition, and for the foregoing reasons,
9 Respondent is **ORDERED** to provide the California Court of Appeal opinion that was incorporated by
10 reference at the 2007 parole board hearing within **fourteen (14) days** of the date this Order is filed. *See*
11 28 U.S.C. § 2254 R. 5(d)(3).

12 Failure of Respondent to comply with this Order may be grounds for the imposition of sanctions
13 on Respondent. *See* L.R. 11-110.

14
15 IT IS SO ORDERED.

16 **Dated:** April 30, 2009

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

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28 ² For ease of reference, the Court utilizes the CM/ECF pagination from the Petition.