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6 UNITED STATES DISTRICT COURT
7 NORTHERN DISTRICT OF CALIFORNIA
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9 KELLY MATHENEY,
10
11 Petitioner,

No. C 06-3965 MHP (pr)

**ORDER FOR SUPPLEMENTAL
BRIEFING**

11 v.

12 A. P. KANE, warden,
13
14 Respondent.

15 En banc review is now pending in Hayward v Marshall, 512 F3d 536 (9th Cir), reh'g en
16 banc granted, 527 F3d 797 (9th Cir 2008), in which important issues related to habeas petitions
17 challenging the denial of parole in California may be decided. The en banc oral argument has
18 occurred and the second round of supplemental briefing is in progress in Hayward. In light of
19 the possibility that the Hayward en banc decision may affect the analysis of this parole denial
20 case, the court requests supplemental briefing on it.

21 Accordingly, within **ten days** of the date the en banc decision in Hayward is issued,
22 respondent must send a copy of that decision to petitioner. Within **twenty days** of the date the
23 decision is issued, respondent must file and serve a supplemental brief (if any) on the impact of
24 Hayward on this action. Within **forty-five days** of the date the decision is issued petitioner must
25 file and serve his supplemental brief (if any) on the impact of Hayward on this action.

26 IT IS SO ORDERED.

27 DATED: October 1, 2008

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Marilyn Hall Patel
United States District Judge