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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EDMUND ASBURY,

Petitioner,

v.

BEN CURRY, Warden,

Respondent.

No. C 08-01946 SBA

ORDER

[Docket Nos. 9, 13]

Petitioner Edmund Asbury has filed a petition and brief of points and authorities for the issuance of a writ of habeas corpus pursuant to 28 U.S.C. § 2254. *See* Docket Nos. 1, 3. The parties have completed briefing this matter. Petitioner, however, on February 11, 2009, filed a Motion to Permit Filing of Supplemental Brief in Opposition to Motion to Dismiss [Docket No. 13], based on the decision in *In re Burdan*, 169 Cal.App.4th 18 (2008), which became final on January 11, 2009. *See* Docket No. 13. Petitioner has also attached a supplemental brief of just over two pages. *In re Burdan* is directly on point and a new development in California law regarding the definition of what constitutes a reasonable delay in filing a habeas petition, after a parole hearing denial, and between successive levels of habeas review in the California court system. Given the importance of this decision to the petition before the Court, the Court GRANTS petitioner’s Motion to Permit Filing of Supplemental Brief in Opposition to Motion to Dismiss [Docket No. 13]. Respondent has 14 days to file a supplemental brief of up to three pages in response to petitioner’s supplemental brief. If respondent requires an extension of time to respond, respondent shall request one from the Court prior to the expiration of the 14 days.

Further, on November 21, 2008, respondent filed a Motion for Extension of Time to File Opposition to Motion to Dismiss [Docket No. 9]. There is no indication that the Court ever received

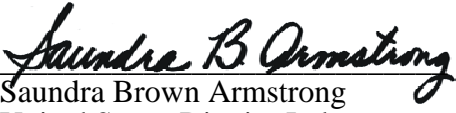
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1 this motion, nor is there any disposition indicated on the docket. As the parties have completed
2 briefing the petition before the Court, this motion is DENIED as moot.

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IT IS SO ORDERED.

February 17, 2009



Sandra Brown Armstrong
United States District Judge