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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

MATTHEW ADAM JAY,

No. C 08-01998 CW (PR)

Petitioner,

ORDER TO SHOW CAUSE

v.

BEN CURRY, Warden,

Respondent.

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Petitioner, a state prisoner, has filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has paid the \$5.00 filing fee. It does not appear from the face of the petition that it is without merit. Good cause appearing, the Court hereby issues the following orders:

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- 1. The Clerk of the Court shall serve a copy of this Order and the petition and all attachments thereto upon Respondent and Respondent's attorney, the Attorney General of the State of California. The Clerk shall also serve a copy of this Order on Petitioner at his current address.
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2. Respondent shall file with this Court and serve upon
Petitioner, within <u>one-hundred twenty (120) days</u> of the issuance of

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¹ Petitioner named Governor Arnold Schwarzenegger and Warden Ben Curry as the respondents in this action. Warden Curry has been substituted as the sole respondent pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

this Order, an Answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent shall file with the Answer a copy of all portions of the relevant state records that have been transcribed previously and that are relevant to a determination of the issues presented by the petition.

- 3. If Petitioner wishes to respond to the Answer, he shall do so by filing a Traverse with the Court and serving it on Respondent within <u>sixty (60) days</u> of his receipt of the Answer. Should Petitioner fail to do so, the petition will be deemed submitted and ready for decision <u>sixty (60) days</u> after the date Petitioner is served with Respondent's Answer.
- 4. Respondent may file a motion to dismiss on procedural grounds in lieu of an Answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an opposition or statement of non-opposition to the motion within sixty (60) days of receipt of the motion, and Respondent shall file with the Court and serve on Petitioner a reply within fifteen (15) days of receipt of any opposition.
- 5. It is Petitioner's responsibility to prosecute this case. Petitioner must keep the Court and Respondent informed of any change of address and must comply with the Court's orders in a timely fashion. Petitioner must also serve on Respondent's counsel all communications with the Court by mailing a true copy of the document to Respondent's counsel.

6. Extensions of time are not favored, though reasonable
extensions will be granted. Any motion for an extension of time
must be filed no later than $\underline{\text{ten (10) days}}$ prior to the deadline
sought to be extended.
7. The Clerk of the Court is directed to substitute Warden
Curry as the sole respondent in this action.
IT IS SO ORDERED.

Dated: 9/2/08

CLAUDIA WILKEN

UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT FOR THE

1 NORTHERN DISTRICT OF CALIFORNIA 2 3 MATTHEW A JAY, 4 Case Number: CV08-01998 CW Plaintiff, 5 **CERTIFICATE OF SERVICE** v. 6 ARNOLD SCHWARZENEGGER et al, 7 Defendant. 8 9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California. 10 That on September 2, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said 11 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located 12 in the Clerk's office. 13 Matthew Adam Jay D-55653 14 Correctional Training Facility P.O. Box 689 15 Soledad, CA 93960 16 BEN CURRY, Warden Correctional Training Facility 17 P.O. Box 689 Soledad, CA 93960 18 Attorney General 19 State of California 455 Golden Gate Avenue, #11000 20 San Francisco, CA 94102 21 Dated: September 2, 2008 22 Richard W. Wieking, Clerk By: Sheilah Cahill, Deputy Clerk 23 24 25 26 27