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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MATTHEW A. JAY,
Petitioner,
v.
BEN CURRY, Warden,
Respondent.

No. C 08-01998 CW (PR)

ORDER DIRECTING PETITIONER TO
FILE RESPONSE AND ADDRESSING
PENDING MOTION

Petitioner, a state prisoner, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the denial of parole by the California Board of Parole Hearings. The Court issued an order to show cause.

On November 12, 2008, the Court granted habeas relief in Petitioner's prior habeas action, Case No. C 06-1795 CW (PR). Respondent in that action subsequently filed an appeal to the Ninth Circuit as well as a motion to stay the Court's November 12, 2008 Order and Judgment pending the resolution of the appeal. Petitioner's attorney in that action, Steve M. Defilippis, has filed a response to the motion. Mr. Defilippis notified the Court that Petitioner was found suitable for parole at his August 12, 2008 hearing; however, that decision is not final and is still subject to the Governor reversing the grant of parole until January 9, 2009. Attorney Defilippis stated that he did not object to a temporary stay of forty-five days from the January 9, 2009 deadline.

In light of the proceedings in his prior habeas action, the Court directs Petitioner to file a response no later than fourteen (14) days of the date of this Order as to whether he is not opposed

1 to a similar temporary stay in this action. If Petitioner fails to
2 respond by the fourteen-day deadline, the Court will grant a
3 temporary stay in this action.

4 The Clerk of the Court is directed to send a copy of this
5 Order to Mr. Defilippis at Picone & Defilippis, APLC, 625 N. First
6 Street, San Jose, California 95112.

7 IT IS SO ORDERED.

8 Dated: 1/9/09



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 MATTHEW A JAY,
5 Plaintiff,

Case Number: CV08-01998 CW

CERTIFICATE OF SERVICE

6 v.

7 ARNOLD SCHWARZENEGGER et al,
8 Defendant.

9
10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

11 That on January 9, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
14 in the Clerk's office.

15 Matthew Adam Jay D-55653
16 Correctional Training Facility
17 P.O. Box 689
18 Soledad, CA 93960

18 Steven Grant Warner
19 Office of the Attorney General
20 455 Golden Gate Ave., Suite 11000
21 San Francisco, CA 94102

21 Mr. Defilippis
22 Picone & Defilippis, APLC
23 625 N. First Street
24 San Jose, California 95112.

25 Dated: January 9, 2009

26 Richard W. Wieking, Clerk
27 By: Sheilah Cahill, Deputy Clerk
28

United States District Court
For the Northern District of California