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2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
4 OAKLAND DIVISION
5

6 JOSEPH LEE DAILY,

7 Petitioner,

8 vs.

9 BEN CURRY, WARDEN.

10 Respondent.

Case No: C 10-0338 SBA (PR)

ORDER TO SHOW CAUSE

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12 Petitioner, Joseph Lee Daily, a state prisoner, has filed a petition for a writ of habeas
13 corpus pursuant to 28 U.S.C. § 2254. Petitioner, who is represented by counsel, challenges the
14 Board of Parole Hearing's decision in 2007 denying his request for parole and related ruling
15 that it would be unreasonable to grant him a parole hearing within the next three years. Good
16 cause appearing, the Court hereby issues the following orders:

17 1. The Clerk of the Court shall serve a copy of this Order and the petition and all
18 attachments thereto upon Respondent and Respondent's attorney, the Attorney General of the
19 State of California. The Clerk shall also serve a copy of this Order on Petitioner's counsel,
20 Steve DeFilippis, Picone & DeFilippis, 625 N. First St., San Jose, California 95112.

21 2. Respondent shall file with this Court and serve upon Petitioner, within one-
22 hundred and twenty (120) days of the issuance of this Order, an Answer conforming in all
23 respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of
24 habeas corpus should not be issued. Respondent shall file with the Answer a copy of all
25 portions of the relevant state records that have been transcribed previously and that are relevant
26 to a determination of the issues presented by the petition.

27 3. If Petitioner wishes to respond to the Answer, he shall do so by filing a Traverse
28 with the Court and serving it on Respondent within sixty (60) days of his receipt of the

1 Answer. Should Petitioner fail to do so, the petition will be deemed submitted and ready for
2 decision sixty (60) days after the date Petitioner is served with Respondent's Answer.

3 4. Respondent may file a motion to dismiss on procedural grounds in lieu of an
4 Answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing
5 Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the Court and
6 serve on Respondent an opposition or statement of non-opposition to the motion within sixty
7 (60) days of receipt of the motion, and Respondent shall file with the Court and serve on
8 Petitioner a reply within fifteen (15) days of receipt of any opposition.

9 5. Extensions of time are not favored, though reasonable extensions will be
10 granted. Any motion for an extension of time must be filed no later than ten (10) days prior to
11 the deadline sought to be extended.

12 IT IS SO ORDERED.

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14 Dated: February 8, 2010


SAUNDRA BROWN ARMSTRONG
United States District Judge

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