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NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

| | | |
|--------------------------|---|-----------------------|
| ROBERT FITZGERALD BROWN, |) | No. C 06-6628 JF (PR) |
| |) | |
| Petitioner, |) | ORDER TO SHOW CAUSE |
| vs. |) | |
| |) | |
| BEN CURRY, |) | |
| |) | |
| Respondent. |) | |

Petitioner, proceeding pro se, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On March 1, 2007, the Court ordered Respondent to show cause why the petition should not be granted based on Petitioner’s three cognizable claims. Respondent’s motion to dismiss on the grounds that two of the claims were unexhausted was granted, and petitioner was granted leave to file an amended petition containing only his exhausted claim. Petitioner has done so. Accordingly, Respondent will be ordered to show cause why the amended petition should not be granted based on the claim set forth therein.

Respondent shall file with the Court and serve on Petitioner, **within ninety days** of the date this order is filed, 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 granted based on the amended petition. Respondent shall file with the answer and serve

1 on Petitioner a copy of all portions of the state parole record that have been transcribed
2 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
4 with the Court and serving it on Respondent **within thirty days** of the date the amended
5 petition is filed.

6 Respondent may file a motion to dismiss on procedural grounds in lieu of an
7 answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing
8 Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the
9 Court and serve on Respondent an opposition or statement of non-opposition **within**
10 **thirty days** of the date the motion is filed, and Respondent shall file with the court and
11 serve on Petitioner a reply **within fifteen days** the date any opposition is filed.

12 IT IS SO ORDERED.

13 DATED: 11/4/08

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15 JEREMY FOGEL
16 United States District Judge
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