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10  
11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

14 **RAPHAEL BARRETO,**

Petitioner,

C 08-2008 MHP (pr)

**ANSWER TO ORDER TO  
SHOW CAUSE**

15  
16 v.

17 **M. MARTEL, Warden (A),**

Respondent.

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20 Respondent hereby provides this answer to the order to show cause why the petition  
21 for writ of habeas corpus should not be granted.

22 **I.**  
23 **CUSTODY**

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25 Petitioner is in the custody of the California Department of Corrections and  
26 Rehabilitation after having been convicted of committing multiple sex offenses. Petitioner was  
27 sentenced to a determinate term of 44 years and to a consecutive indeterminate term of 15 years  
28 to life.

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**II.**  
**EXHAUSTION**

The Court of Appeal affirmed the conviction. The California Supreme Court denied review. Petitioner has no available and unexhausted state remedies.

**III.**  
**RECORDS SUBMITTED**

The clerk’s transcript is Exhibit A. The reporter’s transcript is Exhibit B. The opening brief is Exhibit C. Respondent’s brief is Exhibit D. The reply brief is Exhibit E. The opinion of the Court of Appeal is Exhibit F. The Petition for Review and Order Granting Review are Exhibit G. The Order Dismissing Review is Exhibit H.

**IV.**  
**DENIAL OF CLAIMS**

Respondent denies all allegations in the Petition for Writ of Habeas Corpus except for those expressly admitted in the accompanying Memorandum of Points and Authorities.

Wherefore, respondent respectfully requests that the petition for writ of habeas corpus be denied.

Dated: January 2, 2009

Respectfully submitted,  
EDMUND G. BROWN JR.  
Attorney General of the State of California  
DANE R. GILLETTE  
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**/s/ Allan Yannow**  
  
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AY:eaw

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**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: *Barreto v. Martel, Warden (A)*

No.: **C 08-2008 MHP (pr)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On **January 5, 2009**, I served the attached

**ANSWER TO ORDER TO SHOW CAUSE**

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ANSWER**

**NOTICE OF LODGING OF, AND INDEX TO, EXHIBITS**


by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

**Raphael Barreto**  
**V96693**  
**Mule Creek State Prison**  
**P.O. Box 409060**  
**Ione, CA 95640**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **January 5, 2009**, at San Francisco, California.

**M. Otones**

Declarant

  
Signature