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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

DENAIL SHANE GREEN,	)	Civil No. 05-1485-L(LSP)
	)	
Petitioner,	)	
	)	ORDER FINDING CLAIM
v.	)	EXHAUSTED
	)	
CHARLES M. HARRISON, Warden,	)	ORDER TO RESPOND TO PETITION
	)	
Respondent.	)	

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On April 2, 2008, the Court issued a Notice Regarding Possible Dismissal of Petition for Failure to Exhaust State Court Remedies (hereafter "Notice"). In the Notice, the Court preliminarily found that Claim no. 6 in the Petition was not exhausted. Therefore, the Court gave Petitioner four options regarding how to proceed with his Petition.

The first option was for Petitioner to file further papers to demonstrate that he has exhausted the claim that the Court found to be unexhausted. On September 2, 2008, Petitioner filed his Reply To Court's Notice Regarding Failure to Exhaust State Court Remedies (hereafter "Reply").

The Reply correctly indicates that the claim at issue was exhausted in the state courts.

Therefore, **IT IS ORDERED** that:

1. Respondent shall file and serve an answer to the Petition pursuant to Rule 5 of

1 the Rules Governing § 2254 Cases no later than **November 3, 2008**. At the time the answer  
2 is filed, Respondent shall lodge with the Court all records bearing on the merits of Petitioner’s  
3 claims. The lodgments shall be accompanied by a notice of lodgment which shall be captioned  
4 **“Notice of Lodgment in 28 U.S.C. § 2254 Habeas Corpus Case — To Be Sent to Clerk’s**  
5 **Office.”**

6 2. Petitioner may file a traverse to matters raised in the answer no later than  
7 **December 3, 2008**. Any traverse by Petitioner (a) shall state whether Petitioner admits or  
8 denies each allegation of fact contained in the answer; (b) shall be limited to facts or  
9 arguments responsive to matters raised in the answer; and (c) shall not raise new grounds for  
10 relief that were not asserted in the Petition. Grounds for relief withheld until the traverse will  
11 not be considered. No traverse shall exceed ten (10) pages in length absent advance leave of  
12 Court for good cause shown.

13 a. A request by a party for an extension of time within which to file any of the  
14 pleadings required by this Order should be made in advance of the due date  
15 of the pleading, and the Court will grant such a request only upon a showing  
16 of good cause. Any such request shall be accompanied by a declaration  
17 under penalty of perjury explaining why an extension of time is necessary.

18 b. Unless otherwise ordered by the Court, this case shall be deemed submitted  
19 on the day following the date Petitioner’s opposition to a motion to dismiss  
20 and/or his traverse is due.

21 c. Every document delivered to the Court must include a certificate of service  
22 attesting that a copy of such document was served on opposing counsel (or  
23 on the opposing party, if such party is not represented by counsel). Any  
24 document delivered to the Court without a certificate of service will be  
25 returned to the submitting party and will be disregarded by the Court.

26 d. Petitioner shall immediately notify the Court and counsel for Respondent of  
27 any change of Petitioner’s address. If Petitioner fails to keep the Court  
28 informed of where Petitioner may be contacted, this action will be subject to

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dismissal for failure to prosecute.

IT IS SO ORDERED.

DATED: September 3, 2008



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Hon. Leo S. Papas  
U.S. Magistrate Judge