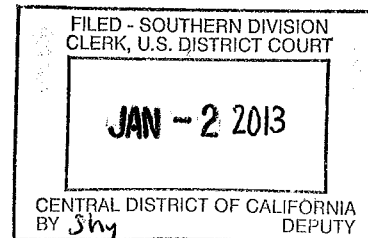


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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

ROGELIO VELOZ, Petitioner, v. M. D. McDONALD, Respondent.	}	Case No. SACV 12-00601 VBF (AN) ORDER ACCEPTING THE FINDINGS AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE
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Pursuant to 28 U.S.C. § 636, the Court has reviewed the file, including the Magistrate Judge’s Report and Recommendation (“R&R”) and Petitioner’s Objections [24]. Further, the Court has completed a *de novo* review of those portions of the R&R to which Petitioner has objected.

IT IS ORDERED that:

1. The Objections, which merely allege Petitioner made an oversight in wording his request for a stay of this action, are overruled. As found by the R&R, Petitioner’s state court records indicate he has made no attempt to exhaust any additional claims by raising them in the California Supreme Court, despite stating his intention to do so several months ago. As a result, he has not shown good cause to qualify for a stay under the rare procedure available under *Rhines v. Weber*, 544 U.S.

1 269, 277-78, 125 S. Ct. 1528 (1995). For the same reason, the Court finds any proposed
2 future amendment to his Petition would be futile, so Petitioner also fails to qualify for
3 a stay under *Kelly v. Small*, 315 F.3d 1063 (9th Cir. 2003). *See Nunes v. Ashcroft*, 375
4 F.3d 805, 808 (9th Cir. 2004); *see also Bonin v. Calderon*, 59 F.3d 815, 845 (9th Cir.
5 1995). Accordingly, Petitioner's Motion for a Stay and Abeyance of this action [13] is
6 DENIED.

7 2. The Court accepts the findings and recommendation of the R&R.

8 3. Judgment shall be entered denying the Petition and dismissing this action
9 with prejudice.

10 4. Any and all other motions are denied as moot and terminated.

11 IT IS FURTHER ORDERED that the clerk of the Court shall serve a copy of this
12 Order and the Judgment on all counsel or parties of record.

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15 Dated: December 28, 2012

Valerie Baker Fairbank

VALERIE BAKER FAIRBANK
UNITED STATES DISTRICT JUDGE

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