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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Damien Miguel Zepeda,
Petitioner,
v.
USA,
Respondent.

No. CV-17-01229-PHX-ROS (JFM)
ORDER

Petitioner, who is represented by counsel, seeks an unopposed continuation of a stay of the briefing schedule pending the Ninth Circuit’s anticipated decision in *United States v. Begay*, No. 14-10080. (Doc. 28.) The parties report that on January 10, 2019, the Ninth Circuit issued an order in *Begay* deferring “submission pending the Supreme Court’s disposition of *United States v. Davis*, No. 18-431.” *Begay*, No. 14-10080, Doc. 107. Petitioner argues the decisions in *Begay* could be dispositive of some of the issues in the present case. In a Report and Recommendation, Magistrate Judge James F. Metcalf recommended granting this motion. (Doc. 29.)

Whether a stay is warranted requires balancing “the competing interests which will be affected by the granting or refusal to grant a stay,” *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005), including “the possible damage which may result from the granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from


1 a stay.” *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). Here, neither party will
2 be prejudiced if the case is stayed. Further, permitting a stay may simplify the issues in
3 this case and promote judicial economy.

4 Accordingly,

5 **IT IS ORDERED** the Report and Recommendation, (Doc. 29), is **ADOPTED IN**
6 **FULL**. Petitioner’s Unopposed Motion to Stay, (Doc. 28), is **GRANTED**.

7 **IT IS FURTHER ORDERED** the parties shall file a status report regarding the
8 continuance of the stay: (1) within 30 days of the issuance of any decision by the Ninth
9 Circuit in *Begay*; (2) within 30 days of the issuance of any decision by the Supreme Court
10 in *Davis*; and (3) in any event on or before **August 8, 2019**, and every three months
11 thereafter.

12 Dated this 22nd day of February, 2019.

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16 Honorable Roslyn O. Silver
17 Senior United States District Judge
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