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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

WILLIAM ZAFRA VELASCO,  
JR.,

Petitioner,

v.

JEFFREY A. BEARD, Secretary,

Respondent.

Case No. CV 15-9995-AB (SP)

**ORDER ACCEPTING FINDINGS AND  
RECOMMENDATION OF UNITED  
STATES MAGISTRATE JUDGE, AND  
DISMISSING GROUND ONE**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, records on file, and the May 5, 2016 Report and Recommendation of the United States Magistrate Judge. Further, the Court has engaged in a de novo review of those portions of the Report to which petitioner has objected. The Court accepts the findings and recommendation of the Magistrate Judge except as set forth below.

With his objections to the Report and Recommendation, petitioner filed exhibits reflecting his efforts to exhaust ground one of the Petition in the state courts following his filing of the Petition in this Court. Most recently, petitioner filed a habeas petition in the California Supreme Court on April 29, 2016 in case number S234191, raising ground one. According to information available online on the California Courts Appellate Courts Case Information website, the California

1 Supreme Court denied that habeas petition on June 8, 2016.

2 Accordingly, it appears ground one is now exhausted, making the Stay Motion  
3 now moot. If for some reason ground one is not yet exhausted, petitioner has still  
4 failed to show good cause for a stay under *Rhines v. Weber*, 544 U.S. 269, 125 S. Ct.  
5 1528, 161 L. Ed. 2d 440 (2005), and a stay under *Kelly v. Small*, 315 F.3d 1063 (9th  
6 Cir. 2003), *overruled on other grounds by Robbins v. Carey*, 481 F.3d 1143 (9th Cir.  
7 2007), would still be futile because ground one is plainly meritless, as set forth in the  
8 Report and Recommendation. Either way, the Stay Motion must be denied.

9 IT IS THEREFORE ORDERED that petitioner's Stay Motion is denied, and  
10 ground one is dismissed from the Petition with prejudice.

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13 DATED: August 16, 2016



HONORABLE ANDRÉ BIROTTE JR.  
UNITED STATES DISTRICT JUDGE

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