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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

WALTER G. COMPTON,  
Petitioner,  
v.  
WARREN MONTGOMERY,  
Warden,  
Respondent.

Case No. CV 16-08557-ODW (KES)  
  
ORDER ACCEPTING FINDINGS AND  
RECOMMENDATIONS OF UNITED  
STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, Petitioner’s Motion for Stay and Abeyance, Respondent’s Opposition to Motion for Stay and Abeyance, Petitioner’s Reply to Opposition to Motion for Stay and Abeyance, the other records on file herein, and the Report and Recommendation of the United States Magistrate Judge. No objections to the Report and Recommendation were filed. The Court accepts the findings and recommendations of the Magistrate Judge.

IT IS THEREFORE ORDERED that: (1) Petitioner’s request for a stay pursuant to Rhines is DENIED; (2) Petitioner’s request for a stay pursuant to Kelly is GRANTED; and (3) Petitioner, if he elects to pursue a Kelly stay, is directed to amend his federal Petition to delete the unexhausted claims. The Court will then

1 stay and hold in abeyance the amended, fully exhausted Petition while Petitioner  
2 returns to state court to exhaust his deleted claims. Should Petitioner fail to file an  
3 amended Petition containing only his exhausted claims within thirty (30) days from  
4 the date of entry of this Order, then the Court will issue a second Report and  
5 Recommendation recommending that the Petition be dismissed as a “mixed”  
6 petition.

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DATED: March 28, 2017



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OTIS D. WRIGHT II  
UNITED STATES DISTRICT JUDGE