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

ADRIAN BERUMAN,  
v.  
ROBERTO A. ARIAS, Warden

No. 2:24-cv-01234-MCS-BFM

**ORDER ACCEPTING  
MAGISTRATE JUDGE'S  
REPORT AND  
RECOMMENDATION**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, the records and files herein, and the Magistrate Judge's Report and Recommendation. No objections to the Report and Recommendation were filed. The Court accepts the recommendations of the Magistrate Judge.

**ACCORDINGLY, IT IS ORDERED:**

1. The Report and Recommendation is accepted.
2. Respondent's Motion to Dismiss (ECF 18) is **denied in part**, to the extent it rests on the timeliness of the Petition.
3. Respondent's Motion to Dismiss (ECF 18) is **granted in part**, to the extent it rests on the argument that Ground Four of the Petition is unexhausted.

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4. Within 30 days of the date of this Order, Petitioner shall either:
- (a) file a notice of withdrawal of his unexhausted Ground Four and election to proceed solely on the exhausted claims; or
  - (b) file a motion to stay these proceedings pursuant to *Rhines v. Weber*, 544 U.S. 269 (2005), or *Kelly v. Small*, 315 F.3d 1063 (9th Cir. 2003), or
  - (c) seek other appropriate relief.

5. Failure to take one of the foregoing actions within 30 days of the date of this Order, may result in the dismissal of this action without prejudice for failure to prosecute and/or failure to exhaust state remedies.

6. The Court Clerk shall serve this Order on all counsel or parties of record.

DATED: October 23, 2024



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HONORABLE MARK C. SCARSI  
UNITED STATES DISTRICT JUDGE