

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JORGE CASTRO,
Petitioner,
v.
KIM HOLLAND, Warden,
Respondent.

Case No. EDCV 15-1094 JAK (SS)
**ORDER ACCEPTING FINDINGS,
CONCLUSIONS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, all the records and files herein, the Report and Recommendation of the United States Magistrate Judge, and Petitioner's Objections.¹ After having made a de novo determination of the portions of the Report and Recommendation to which Objections were directed, the Court concurs with and accepts the findings and conclusions of the Magistrate Judge.

\\
\\

¹ The Court grants Petitioner's Application for an Extension of Time in which to file Objections, (Dkt. No. 56), insofar as the Court has considered the late-filed Objections.

1 Petitioner also moves to stay decision in this action
2 pursuant to Rhines v. Weber, 544 U.S. 269 (2005), so that he may
3 return to state court to exhaust additional claims not raised in
4 his Petition. (Dkt. No. 58). Having reviewed Petitioner's
5 Motion to Stay, the Court concludes that Petitioner has not
6 demonstrated that the Court should exercise its discretion to
7 stay this action. See Rhines, 544 U.S. at 277 (stay and abeyance
8 is available only in "limited circumstances" where habeas
9 petitioner demonstrates good cause for failure to exhaust claims
10 in state court and where unexhausted claims are not plainly
11 meritless). Petitioner's Motion to Stay is therefore denied.

12
13 **IT IS ORDERED** that the Petition is denied and Judgment shall
14 be entered dismissing this action with prejudice.

15
16 **IT IS FURTHER ORDERED** that the Clerk serve copies of this
17 Order and the Judgment herein on Petitioner and on counsel for
18 Respondent.

19
20 **LET JUDGMENT BE ENTERED ACCORDINGLY.**

21
22 DATED: December 19, 2016



23 _____
24 JOHN A. KRONSTADT
25 UNITED STATES DISTRICT JUDGE
26
27
28