

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  
EASTERN DISTRICT OF CALIFORNIA

ARNOLD TREVINO,	)	1:07-CV-00169 LJO DLB HC
	)	
Petitioner,	)	ORDER GRANTING RESPONDENT’S
	)	MOTION FOR STAY AND STAYING
v.	)	JUDGMENT PENDING DISPOSITION OF
	)	MOTION TO VACATE
KATHY MENDOZA-POWERS, Warden,	)	
	)	[Doc. #39]
Respondent.	)	

Petitioner is a state prisoner proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. He is represented in this action by Steven C. Sanders, Esq.

On March 24, 2010, the undersigned issued an Order adopting the Findings and Recommendation of the Magistrate Judge, granting the petition, and entering judgment. Petitioner was ordered to be released within ten (10) days. On March 26, 2010, Respondent filed a motion to vacate judgment. On March 30, 2010, Respondent filed a motion for stay pending disposition of the motion to vacate and/or appeal to the Ninth Circuit Court of Appeals. Petitioner filed a non-opposition to the motion to vacate and an opposition to the motion for stay pending appeal on March 31, 2010.

Pursuant to Rule 62(b)(4) of the Federal Rules of Civil Procedure, the Court has discretion to stay the judgment pending a motion to vacate filed under Rule 60. Because the order granting the

1 petition directed the release of Petitioner within ten (10) days and those ten days have nearly passed,  
2 the Court will issue a stay of the judgment until the motion to vacate judgment is resolved.

3 Accordingly, Respondent's motion for stay is GRANTED, and judgment is STAYED  
4 pending resolution of Respondent's motion to vacate judgment.

5 IT IS SO ORDERED.

6 **Dated: April 6, 2010**

/s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28