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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ISCANDER FRANCISCO MADRIGAL,

Petitioner,

v.

JEFF MACOMBER,

Respondent.

Case No. 1:14-cv-01436-LJO-SAB-HC

ORDER DIRECTING CLERK OF COURT TO SERVE FINDINGS AND RECOMMENDATION (ECF No. 24) AND ORDER GRANTING MOTION FOR EXTENSION OF TIME TO FILE TRAVERSE (ECF No. 22) ON PETITIONER

Petitioner is a state prisoner proceeding pro se in a habeas corpus action pursuant to 28 U.S.C. § 2254.

On May 21, 2015, the Court issued a Findings and Recommendation recommending that Petitioner’s motion to stay the petition be denied and that the petition be dismissed without prejudice. (ECF No. 24). The Findings and Recommendation informed Petitioner that he may move to withdraw the unexhausted claims, file objections to the Findings and Recommendation, or file a motion for a stay pursuant to Kelly v. Small, 315 F.3d 1063, 1070-71 (9th Cir. 2002), within thirty days of the service of the Findings and Recommendation. Upon a review of the docket, it appears that Petitioner was not served with the Findings and Recommendation or the Court’s February 6, 2015 Order Granting Petitioner’s Motion for Extension of Time to File a Traverse. The Court notes that although Petitioner did not receive the Court’s February 6, 2015 order, he filed a motion for stay and abeyance on February 27, 2015.

Therefore, the Court will direct the Clerk of Court to serve copies of the May 21, 2015

1 Findings and Recommendation and February 6, 2015 Order Granting Petitioner’s Motion for
2 Extension of Time on Petitioner. As Petitioner has not yet received the Findings and
3 Recommendation and the Court is serving Petitioner with a copy of the Findings and
4 Recommendation, Petitioner has thirty (30) days from the date of service of the Findings and
5 Recommendation to move to withdraw the unexhausted claims, file objections to the Findings
6 and Recommendations, or file a motion for a stay pursuant to Kelly v. Small, 315 F.3d 1063,
7 1070-71 (9th Cir. 2002).

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The Clerk of Court is directed to serve a copy of the May 21, 2015 Findings and
10 Recommendation (ECF No. 24) and the February 6, 2015 Order Granting Petitioner’s
11 Motion for Extension of Time to File a Traverse (ECF No. 22) on Petitioner;
- 12 2. Petitioner is granted **thirty (30) days** from the date of service of the Findings and
13 Recommendation to move to withdraw the unexhausted claims, file objections to the
14 Findings and Recommendation, or file a motion for a stay pursuant to Kelly v. Small,
15 315 F.3d 1063, 1070-71 (9th Cir. 2002); and
- 16 3. Any reply to the objections or a motion for a stay pursuant to Kelly shall be served
17 and filed within **fourteen (14)** days after service of the objections or the motion for a
18 stay pursuant to Kelly.

19 IT IS SO ORDERED.

20 Dated: July 28, 2015

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23 UNITED STATES MAGISTRATE JUDGE
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