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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

LUIS CALDERON,  
Petitioner,  
v.  
FREDERIC FOULKS,  
Respondent.

Case No. 1:16-cv-00276-LJO-SAB-HC  
FINDINGS AND RECOMMENDATION TO  
VACATE STAY

Petitioner is a state prisoner, represented by counsel, proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On August 26, 2016, the Court stayed the instant federal habeas proceedings pending exhaustion of state remedies. (ECF No. 18). The Court ordered Petitioner to file an initial status report within thirty days of the date of service of the order and every ninety days thereafter. The Court also notified Petitioner that not complying with the Court’s order would result in the Court vacating the stay. Petitioner last filed a status report on January 18, 2017. (ECF No. 22). As over ninety days had passed since Petitioner’s last status report, the undersigned issued an order for Petitioner to show cause why the stay should not be vacated. (ECF No. 23). To date, Petitioner has not filed a response to the order to show cause, and the time for doing so has passed.

Local Rule 110 provides that “[f]ailure of counsel or of a party to comply with these Rules or with any order of the Court may be grounds for imposition by the Court of any and all

1 sanctions authorized by statute or Rule or within the inherent power of the Court.” The Court  
2 previously notified Petitioner that not complying with the Court’s order would result in the Court  
3 vacating the stay. (ECF No. 18 at 2).

4 Based on the foregoing, the undersigned HEREBY RECOMMENDS that the stay in the  
5 instant proceeding be vacated.

6 This Findings and Recommendation is submitted to the assigned United States District  
7 Court Judge, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the Local  
8 Rules of Practice for the United States District Court, Eastern District of California. Within  
9 **FOURTEEN (14) days** after service of the Findings and Recommendation, Petitioner may file  
10 written objections with the court and serve a copy on all parties. Such a document should be  
11 captioned “Objections to Magistrate Judge’s Findings and Recommendation.” The assigned  
12 District Judge will then review the Magistrate Judge’s ruling pursuant to 28 U.S.C. §  
13 636(b)(1)(C). The parties are advised that failure to file objections within the specified time may  
14 waive the right to appeal the District Court’s order. Wilkerson v. Wheeler, 772 F.3d 834, 839  
15 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

16 IT IS SO ORDERED.

17 Dated: May 10, 2017

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20 UNITED STATES MAGISTRATE JUDGE  
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