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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RAMON PEREZ ZAPATA,
Petitioner,
v.
S. FRAUENHEIM,
Respondent.

Case No. 1:16-cv-01260-SAB-HC
ORDER STAYING PROCEEDINGS
ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL
(ECF No. 12)

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has consented to the jurisdiction of the United States Magistrate Judge. (ECF No. 7).

On September 30, 2016, the Court granted Petitioner’s motion to proceed with the stay procedure set forth in Kelly v. Small, 315 F.3d 1063 (9th Cir. 2002). (ECF No. 9). On October 21, 2016, Petitioner filed an amended petition containing only exhausted claims, which satisfies the first requirement for a Kelly stay. (ECF No. 11).

Petitioner also has filed a second motion for appointment of counsel. (ECF No. 12). The Court previously denied appointment of counsel on September 7, 2016. (ECF No. 6). In the instant motion, Petitioner fails to raise any additional facts or arguments that were not already considered by this Court in denying Petitioner’s first motion for appointment of counsel. The Court finds that with the assistance of another inmate, Petitioner appears to have a sufficient

1 grasp of his claims and the legal issues involved and that he is able to articulate those claims
2 adequately. The legal issues involved are not extremely complex, and Petitioner does not
3 demonstrate a likelihood of success on the merits such that the interests of justice require the
4 appointment of counsel at the present time.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. Petitioner's motion for appointment of counsel (ECF No. 12) is DENIED;
- 7 2. The proceedings are STAYED pending exhaustion of state remedies; and
- 8 3. Petitioner is DIRECTED to file a status report within ninety (90) days of the date of
9 service of this order, and then every ninety (90) days thereafter. Within thirty (30)
10 days following the final order of the state courts, Petitioner MUST FILE an amended
11 petition in this Court including all exhausted claims.

12 Petitioner is forewarned that failure to comply with this order will result in the Court
13 vacating the stay.

14 IT IS SO ORDERED.

15 Dated: October 24, 2016

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18 UNITED STATES MAGISTRATE JUDGE
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