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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	DERRICK L. JOHNSON,	Case No.: 1:19-cv-00976-JLT (HC)
12	Petitioner,	ORDER DIRECTING CLERK OF COURT TO
13	v. ()	ASSIGN DISTRICT JUDGE
14	SCOTT KERNAN, Secretary of California	FINDINGS AND RECOMMENDATION REGARDING PETITIONER'S APPLICATION
15	Department of Corrections and Rehabilitation, et al.,	FOR RELEASE ON BAIL PENDING DETERMINATION OF PETITION
16	Respondents.	
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18	Petitioner filed a Petition for Writ of Habeas Corpus on July 3, 2019. (Doc. 1.) In the petition,	
19	Petitioner requested bail pending the determination of the petition. (Doc. 1 at 2.)	
20	DISCUSSION	
21	The Ninth Circuit Court of Appeals has not yet determined whether a district court has the	
22	authority to release a state prisoner on bail pending resolution of a habeas proceeding. In re Roe, 257	
23	F.3d 1077, 1079-1080 (9th Cir. 2001). However, even assuming a district court has this power, the	
24	exercise of such authority is reserved for extraordinary cases. Id., 257 F.3d at 1080; see also United	
25	States v. Mett, 41 F.3d 1281, 1282 (9th Cir. 1994) (bail pending the resolution of a habeas	
26	corpus petition filed in a district court is reserved to "extraordinary cases involving special	
27	circumstances" and where there is a high probability of the petitioner's success). A petitioner must	
28	demonstrate circumstances that makes his situat	tion exceptional and especially deserving of bail in the

1	interests of justice. See Aronson v. May, 85 S.Ct. 3, 5, 13 L. Ed. 2d 6 (1964) (Douglas, Justice, in		
2	chambers); Benson v. California, 328 F.2d 159, 162 (9th Cir. 1964). In addition to these factors, the		
3	Court must take into consideration the petitioner's risk of flight and the danger to the community		
4	should the petitioner be released. Marino v. Vasquez, 812 F.2d 499, 508-09 (9th Cir. 1987). Petitioner		
5	has made none of these showings.		
6	RECOMMENDATION		
7	Accordingly, the Court RECOMMENDS that Petitioner's request for release on bail pending		
8	determination of the petition be DENIED.		
9	This Findings and Recommendation is submitted to the United States District Court Judge		
10	assigned to this case, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the		
11	Local Rules of Practice for the United States District Court, Eastern District of California. Within		
12	twenty-one days after being served with a copy, any party may file written objections with the Court.		
13	Such a document should be captioned "Objections to Magistrate Judge's Findings and		
14	Recommendation." Replies to objections must be filed within ten court days of the date of service of		
15	any objections. The Court will then review the Magistrate Judge's ruling pursuant to 28 U.S.C. § 636		
16	(b)(1)(C). The parties are forewarned that failure to file objections within the specified time may		
17	waive the right to appeal the District Court's order. <u>Martinez v. Ylst</u> , 951 F.2d 1153 (9th Cir. 1991).		
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19	IT IS SO ORDERED.		
20	Dated: September 24, 2019 /s/ Jennifer L. Thurston		
21	UNITED STATES MAGISTRATE JUDGE		
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