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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JESSE MORENO,

Petitioner,

v.

KATHLEEN ALLISON,

Respondent.

Case No. 1:22-cv-00851-JLT-EPG-HC
**ORDER GRANTING IN PART
PETITIONER’S MOTION FOR
EXTENSION OF TIME TO FILE
OBJECTIONS TO FINDINGS AND
RECOMMENDATION**
(ECF No. 27)

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

On June 21, 2022, Petitioner filed the instant petition for writ of habeas corpus. (ECF No. 1.) On July 12, 2022, the Court ordered Petitioner to show cause why the petition should not be dismissed as unexhausted. (ECF No. 9.) Thereafter, Petitioner filed a motion to disqualify the undersigned, which was denied.¹ (ECF Nos. 12, 13.) On August 1, 2022, Petitioner moved to stay the proceedings pursuant to Rhines v. Weber, 544 U.S. 269 (2005), while Petitioner exhausts his remedies in state court. (ECF No. 14.) On August 26, 2022, the undersigned issued findings and recommendation to deny the motion to stay and dismiss the petition without prejudice for failure to exhaust state court remedies. (ECF No. 19.) The findings and

¹ Petitioner appealed the denial of his motion to disqualify. (ECF No. 15.) On August 17, 2022, the Ninth Circuit dismissed the appeal for lack of jurisdiction. (ECF No. 18.)

1 recommendation was served on Petitioner and contained notice that any objections were to be
2 filed within thirty (30) days of the date of service of the findings and recommendation. In lieu of
3 filing objections, Petitioner filed a notice of appeal on September 6, 2022. (ECF No. 20.) On
4 September 26, 2022, the appeal was dismissed for lack of jurisdiction, and the mandate issued on
5 October 17, 2022. (ECF Nos. 24, 25.) On October 18, 2022, the Court granted Petitioner
6 additional time to file objections to the findings and recommendation. (ECF No. 16.)

7 Petitioner now moves for a 120-day extension of time to file objections to the findings
8 and recommendation. (ECF No. 27.) Petitioner claims that he “does not have a conflict-free use
9 of Valley State Prison’s law library” due to a previous incident in the law library where the
10 library assistant made inappropriate comments about Petitioner and a fellow inmate that
11 allegedly resulted in the other inmate later being attacked. (*Id.* at 1–2.)

12 Although the Court will grant Petitioner an extension of time, the Court finds that 120
13 days is excessive. The Court will grant a sixty-day extension, noting that no further extensions
14 will be permitted absent a showing of extraordinary cause, which is not present here.

15 Accordingly, IT IS HEREBY ORDERED that Petitioner is GRANTED to and including
16 January 20, 2023, to file his objections to the findings and recommendation.

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18 IT IS SO ORDERED.

19 Dated: November 17, 2022

20 /s/ Eric P. Gray
21 UNITED STATES MAGISTRATE JUDGE
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