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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALFRED GOMEZ,

Petitioner,

v.

GISELLE MATTESON, Acting Warden,

Respondent.

No. 1:24-cv-00087-KES-SKO (HC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS  
(Doc. 5)

ORDER GRANTING PETITIONER'S  
MOTION FOR STAY, DISMISSING  
GROUNDS SIX AND SEVEN FROM  
PETITION, AND HOLDING PROCEEDINGS  
IN ABEYANCE PENDING EXHAUSTION  
OF STATE REMEDIES

[60-DAY STATUS REPORT DEADLINE]

Petitioner Alfred Gomez is a state prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 23, 2024, the assigned magistrate judge issued Findings and Recommendations to grant Petitioner's motion to stay proceedings pursuant to Kelly v. Small, 315 F.3d 1063 (9th Cir. 2003). (Doc. 5.) Those Findings and Recommendations were served upon all parties and contained notice that any objections thereto were to be filed within fourteen (14) days after service. *Id.* at 3. No objections have been filed, and the deadline to do so has

1 expired.

2 In accordance with the provisions of 28 U.S.C. § 636 (b)(1), the Court has conducted a de  
3 novo review of the case. Having carefully reviewed the entire file, the Court concludes that the  
4 magistrate judge's Findings and Recommendations are supported by the record and proper  
5 analysis.

6 Accordingly,

7 1. The Findings and Recommendations issued on January 23, 2024, (Doc. 5), are  
8 adopted in full;

9 2. Petitioner's motion for stay pursuant to *Kelly v. Small*, 315 F.3d 1063 (9th  
10 Cir. 2003), (Doc. 2), is granted;

11 3. Grounds Six and Seven are dismissed from the petition without prejudice;

12 4. The petition is stayed pending exhaustion of state remedies with respect to  
13 Grounds Six and Seven;

14 5. Petitioner is DIRECTED to file a status report within sixty (60) days, and then  
15 every sixty (60) days thereafter; and

16 6. Following final action by the California Supreme Court, Petitioner is DIRECTED  
17 to notify the Court by filing a motion to lift the stay along with an amended petition setting forth  
18 the exhausted claims within thirty (30) days of the date of the California Supreme Court's  
19 decision.

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22 IT IS SO ORDERED.

23 Dated: March 27, 2024

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UNITED STATES DISTRICT JUDGE