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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVEN PERRIDON,

Petitioner,

No. CIV S-00-1123 LKK JFM P

vs.

ERNIE ROE, Warden, et al.,

ORDER

Respondents.

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Petitioner is a state prisoner proceeding through counsel with an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 3, 2005, this court issued an order granting petitioner's May 9, 2005 motion to amend his petition and recommending, *inter alia*, that this matter be stayed pending exhaustion of state court remedies as to two newly added claims for relief. On July 8, 2005, respondents filed a motion for relief from the order granting leave to file an amended petition. By order filed July 12, 2005, the district court adopted in full the June 3, 2005 findings and recommendations and stayed this action pending exhaustion of state remedies as to the additional claims for relief. On July 13, 2005, respondents filed a motion for reconsideration of that order.

On February 9, 2007, petitioner filed a motion to lift the stay of this action. On March 16, 2007, respondents filed a response to petitioner's motion. In their response, respondents indicate that they have no opposition to lifting the stay of this action but that they wish to preserve the statute of limitations defense raised in their July 8, 2005 motion for relief

1 from the order granting petitioner leave to amend his petition and their July 13, 2005 motion for  
2 reconsideration of the stay order.

3 Good cause appearing, the stay of this action will be lifted. Respondents' July 13,  
4 2005 motion for reconsideration is thereby mooted and will be denied. Respondents will be  
5 granted a period of time in which to file a motion to dismiss the two claims added to this action  
6 in petitioner's June 3, 2005 amended petition on any appropriate grounds including but not  
7 limited to those advanced in their July 8, 2005 and July 13, 2005 motions.

8 Good cause appearing, IT IS HEREBY ORDERED that:

- 9 1. Petitioner's February 9, 2007 request to lift the stay is granted;
- 10 2. The Clerk of the Court is directed to reopen this action;
- 11 3. Respondents' July 8, 2005 motion for relief from judgment is denied without  
12 prejudice;
- 13 4. Respondents' July 13, 2005 motion for reconsideration is denied as moot and  
14 without prejudice to renewal of the statute of limitations arguments contained therein by motion  
15 to dismiss filed in accordance with this order;
- 16 5. Respondents are granted twenty days from the date of this order to file and  
17 serve a motion to dismiss the two Batson claims raised in petitioner's first amended petition filed  
18 June 3, 2005; and
- 19 6. Said motion shall be noticed for hearing on this court's regular law and motion  
20 calendar and briefed in accordance with the provisions of Local Rule 78-230(m).

21 DATED: March 20, 2007.

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25 UNITED STATES MAGISTRATE JUDGE  
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