

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

BENITO JULIAN LUNA,

Petitioner,

NO. CIV S-04-0627 FCD GGH P

vs.

ORDER

SCOTT KERNAN,

Respondent.

_____ /

Petitioner's former appointed counsel has requested \$14,402.52 in attorneys' fees.

This case was unduly delayed by petitioner's counsel during the exhaustion process and/or the period after exhaustion but before re-commencement of the action in federal court, to the point that when the amended petition was filed, the issue of the expiration of the statute of limitations was raised sua sponte by the undersigned. That issue remains pending. Until the action has been adjudicated, the undersigned declines to award attorneys' fees. Should the action not be dismissed on limitations' grounds, the undersigned will reconsider this order.

DATED: August 2, 2011

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

luna0627.ord