

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

TRACY MAXXIZZINE JONES,

Petitioner,

No. CIV S-05-1067 GEB GGH P

vs.

GLORIA A. HENRY,

Respondent.

FINDINGS & RECOMMENDATIONS

\_\_\_\_\_/

Petitioner, a state prisoner proceeding with appointed counsel filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Ninth Circuit issued an order on December 7, 2011, that affirmed and remanded this case and then denied a motion for rehearing on February 3, 2012. The Circuit remanded the case to the District Court to stay the case pending the outcome of an appeal in state court on similar issues.

The undersigned ordered a status report to be filed regarding the state court appeal that had itself been stayed pending the Ninth Circuit appeal. Petitioner indicates that respondent will not be filing a petition for writ of certiorari, but respondent had not yet replied to petitioner’s request to lift the stay in state court. Nevertheless, the only logical course of action at this time is to reinvigorate the stayed state case on appeal, and the undersigned assumes that the parties will proceed with the appeal in state court. Accordingly, the undersigned recommends that the instant

