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

DUANE HOLLOWAY,

Petitioner,

No. CIV S-05-2089 FCD EFB P

vs.

VINCENT CULLEN, Warden of San
Quentin State Prison,

Respondent.

ORDER
DEATH PENALTY CASE

On July 13, 2010, the parties filed a Stipulation for Status Conference and Order,
informing the court of the following:

On June 21, 2010, the United States Supreme Court granted a petition for writ of
certiorari filed by the California Attorney General's Office in *Walker v. Martin*,
___ S.Ct. ___, 2010 WL 621406 (June 21, 2010). The questions presented in the
Martin case are as follows:

Under state law in California, a prisoner may be barred from
collaterally attacking his conviction when the prisoner
"substantially delayed" filing his habeas petition. In federal habeas
corpus proceedings, is such a state law "inadequate" to support a
procedural bar because (1) the federal court believes that the rule is
vague and (2) that state failed to prove that its courts
"consistently" exercised their discretion when applying the rule in
other cases?

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1 There is a substantial possibility that the outcome of the Martin case could alter
2 the framework established by the Ninth Circuit for evaluating the adequacy of
3 California's procedural bars under *Bennett v. Mueller*, 322 F.3d 573 (9th Cir. 2003)
4 and *King v. Lamarque*, 464 F.3d 963 (9th Cir. 2006).

5 Dckt. No. 61. The parties stipulated that briefing on respondent's pending motion for summary
6 judgment, which is based on procedural defaults, be suspended until further order of the court.
7 The court finds that this action should be administratively stayed pending the issuance of a
8 decision in *Martin*.

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. Briefing on the pending motion for summary judgment is stayed pending the issuance
11 of a decision in *Martin*; and

12 2. The parties are directed to file a joint status report within 14 days after a decision in
13 *Martin* is rendered.

14 DATED: August 2, 2010.

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16 EDMUND F. BRENNAN
17 UNITED STATES MAGISTRATE JUDGE
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