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

RICHARD E. KARR,

Petitioner,

No. CIV S-06-0599 JAM DAD P

vs.

D. K. SISTO, et al.,

Respondents.

FINDINGS & RECOMMENDATIONS

_____ /

Petitioner is a state prisoner proceeding pro se with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner alleges that the decision of the California Board of Parole Hearings (Board) to deny him parole for one year at his eighteenth parole consideration hearing held on April 14, 2004, violated his federal constitutional right to due process. The Board’s decision was based, in part, on the circumstances of petitioner’s crime. Such a claim is cognizable in federal court under the Ninth Circuit decision in Hayward v. Marshall, 512 F.3d 536 (9th Cir. 2008.) On May 16, 2008, the Ninth Circuit granted rehearing en banc in Hayward, and the case was argued and submitted for decision on June 24, 2008.

On August 29, 2007, petitioner filed another petition for a writ of habeas corpus in this court, challenging a 2006 decision by the California Board of Parole Hearings finding him

1 unsuitable for parole. (See Case No. 07-cv-01773-MMS.) By order dated November 24, 2008,
2 that petition was transferred to a visiting judge, Circuit Judge Mary M. Schroeder sitting by
3 designation, for decision. On April 8, 2009, that action was stayed by Circuit Judge Schroeder
4 pending final disposition of Hayward v. Marshall.

5 Accordingly, good cause appearing, IT IS HEREBY RECOMMENDED that this
6 action also be stayed pending final disposition of Hayward v. Marshall.

7 These findings and recommendations will be submitted to the United States
8 District Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within
9 twenty days after being served with these findings and recommendations, any party may file
10 written objections with the court. The document should be captioned "Objections to Findings
11 and Recommendations." The parties are advised that failure to file objections within the
12 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
13 F.2d 1153 (9th Cir. 1991).

14 DATED: August 25, 2009.

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18 DALE A. DROZD
19 UNITED STATES MAGISTRATE JUDGE

18 DAD:8
19 karr599.sta