



1 to permit a mixed petition to be stayed pending further exhaustion. See Rhines v. Weber, 544  
2 U.S. 269 (2005). For reasons not known, the then assigned district judge did not rule on the  
3 objections. Thereafter, the case was assigned to a visiting judge, and finally to the undersigned on  
4 April 30, 2008. However, respondent's objections to the March 26 Order/Findings and  
5 Recommendations were not brought to the undersigned's attention. Thus, the federal petition has  
6 been de facto stayed since March 26, 2007.

7 On July 7, 2009, petitioner's counsel brought to the undersigned's attention that  
8 the objections remained outstanding, but also notified the court that one of the pending state  
9 petitions had been decided by the state supreme court on June 24, 2009.<sup>1</sup> Petitioner asked for  
10 clarification that a stay was indeed in effect.

11 Due to the procedural history, the court need not obtain a response to petitioner's  
12 Motion for Stay and For Clarification of Previous Stay of Proceedings. The undersigned has  
13 reviewed the March 26, 2007 Findings and Recommendations de novo. For the reasons stated  
14 therein, and the passage of time as explained above, the undersigned adopts the Findings and  
15 Recommendations in their entirety. The stay of these federal proceedings is now formally  
16 ordered. Petitioner's Motion for Stay and for Clarification etc. (Docket # 28) is denied as moot.

17 Petitioner and Respondent shall file a status report before the magistrate judge  
18 within sixty (60) days relating the status of the state habeas proceedings, and further contemplated  
19 proceedings in this federal action if the state action is finally resolved.

20 IT IS SO ORDERED.

21 Dated: July 16, 2009

22 /s/ John A. Mendez

23 UNITED STATES DISTRICT JUDGE

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26 <sup>1</sup>Evidently, a "protective petition" filed with the state supreme court on July 2, 2004 has not yet been ruled upon.