

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

BENSON ROBERT NEAL, JR. ,

Petitioner,

vs.

D. K. SISTO,<sup>1</sup> Warden, California State  
Prison, Solano,

Respondent.

No. 2:06-cv-00797-JWS

STAY ORDER

At Docket No. 21 this Court issued its Order to Show Cause why this matter should not be stayed pending the issuance of the mandate by the United States Court of Appeals for the Ninth Circuit in *Hayward v. Marshall*, 512 F.3d 536, *rehrg en banc granted*, 527 F.3d 797 (9th Cir. 2008), Case No. 06-55392. Respondent concurs that this matter should be stayed. Docket No. 22. Petitioner has not timely responded to the order. Accordingly,

IT IS THEREFORE ORDERED THAT this matter is stayed pending the issuance of the mandate by the United States Court of Appeals for the Ninth Circuit in *Hayward v. Marshall*, 512 F.3d 536, *rehrg en banc granted*, 527 F.3d 797 (9th Cir. 2008), Case No. 06-55392.

Dated: January 2, 2009.

s/ John W. Sedwick  
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JOHN W. SEDWICK  
United States District Judge

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<sup>1</sup> D. K. Sisto, Warden, Solano State Prison, is hereby substituted for Tom L. Carey, Warden, Solano State Prison. Fed. R. Civ. P. 17(d).