

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

MARCUS JAMES SMITH,

Petitioner,

vs.

S. R. MOORE,¹ Warden (A), Deuel
Vocational Center,

Respondent.

No. 2:06-cv-00828-JKS

STAY ORDER

At Docket No. 10 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, *rehr'g en banc granted*, 527 F.3d 797 (9th Cir. 2008), Case No. 06-55392. Respondent concurs that this matter should be stayed. Docket No. 11. 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, *rehr'g en banc granted*, 527 F.3d 797 (9th Cir. 2008), Case No. 06-55392.

Dated: January 16, 2009.

/s/ James K. Singleton, Jr.

JAMES K. SINGLETON, JR.

United States District Judge

¹ S. R. Moore, Warden (A), Deuel Vocational Center, is substituted for Claude E. Finn, Warden, Deuel Vocational Center. Fed. R. Civ. P. 17(d).