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

LANCE ARMAN CROMWELL,

Petitioner,

No. CIV S-06-2412 FCD GGH P

vs.

K. PROSPER, et al.,

Respondents.

ORDER

_____ /

By Order, filed on November 13, 2009 (docket # 7), petitioner was ordered to show cause, within 21 days, why the stay in this habeas petition should not be lifted. The court noted therein that petitioner pro se had filed a habeas petition, pursuant to 28 U.S.C. § 2254, on November 1, 2006, and that, by Order, filed on February 7, 2007, the petition was stayed pending exhaustion of petitioner’s fourth ground for relief. In that Order (docket # 6), petitioner had been directed to inform the court of the state supreme court’s decision within 30 days of a decision being rendered, after which the matter was to proceed. The court observed in the show cause order that it had been more than two and one-half years with no further word from petitioner.

In his timely response, petitioner asks that the stay not be lifted because the California Supreme Court has yet to return a decision as to the fourth ground of relief. In the Findings and Recommendations, filed in December 4, 2006 (docket # 5) (adopted by the Order at

1 docket # 6), the court had noted that petitioner had already begun the process of exhausting his
2 fourth claim at that time. Docket # 5, p. 2. In his current show cause response, petitioner states
3 that he has written to the state supreme court to request the current status of his writ petition and
4 states that he will inform the court as soon as he receives a response. The court will find that
5 petitioner has discharged the show cause order, and will not lift the stay at this time. However,
6 petitioner must inform the court, within 21 days, whether he has received a response to his
7 inquiry from the California Supreme Court; if so, he must inform the court of the status of his
8 state court petition; if he has received no response, the stay in this matter will be lifted and the
9 petition will be served.

10 Accordingly, IT IS HEREBY ORDERED that:

11 1. Petitioner has discharged the show cause order, filed on November 13, 2009
12 (docket # 7), by his timely response (docket # 8);

13 2. Petitioner must inform the court, within 21 days, whether he has received a
14 response to his inquiry from the California Supreme Court and, if so, he must inform the court of
15 the status of his state court petition; if no response is received, the petitioner must so inform the
16 court within the same time period; and

17 3. If no response is forthcoming from the state supreme court, the court may lift
18 the stay and serve the petition.

19 DATED: December 17, 2009

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

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