(HC) Hernan	ndez v. Subia et al Doc. 38
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6	UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA
7	DIGADDO HEDNANDEZ
8	RICARDO HERNANDEZ,) Case No. C07-0839RSL-JLW
9	Petitioner,) v.)
10) ORDER STAYING AUGUST 10, 2010 R.J. SUBIA,) ORDER
11	Respondent.
12)
13	This matter comes before the Court on respondent's "Application for a "Stay of
14	the Court's August 10, 2010 Order." Dkt. # 32. In order to justify a stay pending appeal,
15	respondent has the burden of showing (1) that there is a strong likelihood that he will succeed
16	on the merits of his appeal; (2) that he will suffer irreparable injury if the proceeding is not
17	stayed; (3) that a stay would not substantially injure any other party; and (4) that a stay is in the
18	public's interest. See Hilton v. Braunskill, 481 U.S. 770, 776 (1987). Having reviewed the
19	record in this matter, the Court finds that the equities are fairly balanced. Because the
20	petitioner's release, if later deemed improper, would harm both the state and the public, the
21	Court finds that the <i>status quo</i> should remain in effect until this matter is finally resolved.
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23	For all of the foregoing reasons, respondent's motion to stay the August 10, 2010,
24	order pending appeal is GRANTED.
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	ORDER STAYING AUGUST 10, 2010, ORDER
	ONDER STATING AUGUST 10, 2010, ONDER
	/I

Dated this 2nd day of September, 2010.

MMS Casnik

Robert S. Lasnik

United States District Judge