

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

FRANK KENNETH BENSON,

Petitioner,

vs.

GARY SWARTHOUT, Warden (A),
California State Prison, Solano,

Respondent.

No. 2:07-cv-02244-JKS

STAY ORDER

At Docket No. 16 the Court entered its Order to Show Cause why this matter should not be stayed pending the decision of the United States Court of Appeals for the Ninth Circuit in *Hayward v. Marshall*, 512 F.3d 536, *reh'g en banc granted*, 527 F.3d 797 (9th Cir. 2008). Respondent concurred. Docket No. 17. Petitioner did not respond and the time for response has lapsed.

IT IS THEREFORE ORDERED THAT further proceedings in this matter are 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, *reh'g en banc granted*, 527 F.3d 797 (9th Cir. 2008), Case No. 06-55392.

IT IS FURTHER ORDERED THAT, should the Petitioner be granted parole, not later than 30 days after the decision of the Board of Parole Hearings becomes effective, Respondent is directed to inform this Court of the action of the Board and the date Petitioner is scheduled to be released on parole.

Dated: April 5, 2010.

/s/ James K. Singleton, Jr.
JAMES K. SINGLETON, JR.
United States District Judge