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

PEDRO FERNANDEZ OROZCO,

Petitioner,

2:08-cv-0711-GEB-JFM-HC

vs.

T. FELKER, Warden,

Respondent.

ORDER

_____ /

On September 29, 2008, petitioner filed a request for reconsideration of the magistrate judge’s order filed September 12, 2008, denying, without prejudice, petitioner’s motion to hold the habeas petition in abeyance. Pursuant to E.D. Local Rule 72-303(f), a magistrate judge’s orders shall be upheld unless “clearly erroneous or contrary to law.” Upon review of the entire file, the court finds that it does not appear that the magistrate judge’s ruling was clearly erroneous or contrary to law.

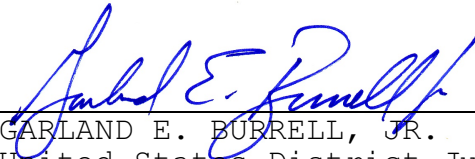
Petitioner expressed concern that the magistrate judge did not advise petitioner that he could proceed on his one exhausted claim. However, because the instant petition raises only one claim which petitioner has exhausted, petitioner’s case is proceeding in this court as to that one claim. Petitioner’s case is now submitted to the court for decision. As long as petitioner

1 keeps the court apprised of his current address, petitioner will receive all court decisions which
2 are issued.

3 Petitioner also renewed his request for the appointment of counsel. There
4 currently exists no absolute right to appointment of counsel in habeas proceedings. See
5 Nevius v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996). However, 18 U.S.C. § 3006A authorizes
6 the appointment of counsel at any stage of the case “if the interests of justice so require.” See
7 Rule 8(c), Fed. R. Governing § 2254 Cases. In the present case, the court does not find that the
8 interests of justice would be served by the appointment of counsel at the present time.

9 Therefore, IT IS HEREBY ORDERED that, upon reconsideration, the order of the
10 magistrate judge filed September 12, 008, is affirmed. Petitioner’s renewed motion for
11 appointment of counsel is denied.

12 Dated: August 4, 2009

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GARLAND E. BURRELL, JR.
United States District Judge