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

IAN McFARLAND,

Petitioner,

No. CIV S-08-1165 JAM GGH P

vs.

D.K. SISTO, et al.,

Respondents.

ORDER

_____ /

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges the 2006 decision by the California Board of Parole Hearings (BPH) finding him unsuitable for parole. On March 26, 2009, the undersigned issued an order to show cause why this action should not be administratively stayed pending the Ninth Circuit’s decision in Hayward v. Marshall, 512 F.3d 536 (9th Cir. 2008), *reh’g en banc granted*, ___ F.3d ___, No. 06-55392 (9th Cir. filed May 16, 2008). On April 14, 2009, respondent filed a response agreeing that a stay was appropriate. Petitioner has not responded.

In March 2009, this court presumed that a decision in Hayward would be shortly forthcoming. However, nearly five months have passed since that time and Hayward is still pending. It is not now clear when a decision in Hayward will be issued. Under these circumstances, staying this action could result in a lengthy delay in the disposition of petitioner’s

1 claims. In addition, judicial economy is not promoted by a stay. For these reasons, the order to
2 show cause to stay the petition is vacated

3 Accordingly, IT IS HEREBY ORDERED that the March 26, 2009, order to show
4 cause is vacated and the petition is deemed submitted as of November 2, 2008.

5 DATED: August 11, 2009

/s/ Gregory G. Hollows

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7 GREGORY G. HOLLOWES
8 UNITED STATES MAGISTRATE JUDGE

GGH:AB
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