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

9 BRIAN KEITH MONTGOMERY,

10 Petitioner,

No. CIV S-08-3180 KJM P

11 vs.

12 D.K. SISTO,

13 Respondent.

ORDER

14 _____/
15 Petitioner is a prisoner proceeding with an application for writ of habeas corpus under
16 28 U.S.C. § 2254. The court previously stayed the proceedings, including the filing of an answer,
17 pending the Ninth Circuit's en banc review of Hayward v. Marshall, 512 F.3d 536 (9th Cir. 2008),
18 reh'g en banc granted, 527 F.3d 797 (9th Cir. 2008). The court ordered respondent to file an answer
19 within sixty days of the Ninth Circuit's en banc decision. See Docket No. 10. The Ninth Circuit
20 issued its en banc decision in Hayward on April 22, 2010. See Hayward v. Marshall, 603 F.3d 546
21 (9th Cir. 2010). The parties have timely filed their respective answer and traverse pursuant to the
22 court's order and the Local Rules. The stay shall be lifted.

23 Accordingly, IT IS HEREBY ORDERED that the stay imposed by order of June 19,
24 2009, is lifted.

25 DATED: July 15, 2010.

26 4, mont3180.lift.stay


U.S. MAGISTRATE JUDGE