

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

BRIAN KEITH MONTGOMERY,

Petitioner, No. CIV S-08-3180 KJM P

VS.

D.K. SISTO,

Respondent. ORDER

Petitioner is a prisoner proceeding with an application for writ of habeas corpus under 254. The court previously stayed the proceedings, including the filing of an answer, inth Circuit's en banc review of Hayward v. Marshall, 512 F.3d 536 (9th Cir. 2008), granted, 527 F.3d 797 (9th Cir. 2008). The court ordered respondent to file an answer days of the Ninth Circuit's en banc decision. See Docket No. 10. The Ninth Circuit en banc decision in Hayward on April 22, 2010. See Hayward v. Marshall, 603 F.3d 546). The parties have timely filed their respective answer and traverse pursuant to the and the Local Rules. The stay shall be lifted.

Accordingly, IT IS HEREBY ORDERED that the stay imposed by order of June 19,

DATED: July 15, 2010.

4, mont3180.lift.stay

U.S. MAGISTRATE JUDGE