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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ARQUIMEDES MENDOZA,  
Petitioner,  
v.  
MATTHEW CATE,  
Respondent.

No. 2:09-cv-1710 MCE DAD P

ORDER

Petitioner’s April 26, 2013 motion entitled “Application and Request to Subpoena Witness Take Depositions and Other Discovery; Request to Modify Briefing Schedule” came on for hearing on July 26, 2013, at 10:00 a.m. in the chambers of the undersigned. Although petitioner’s motion was scheduled for hearing pursuant to court order dated March 27, 2013, both counsel for petitioner and counsel for respondent failed to appear at the hearing set by the court.

Upon review of the motion and opposition thereto, and good cause appearing therefor, THE COURT ORDERS AS FOLLOWS:

1. Petitioner’s motion for discovery (ECF No. 52) is denied without prejudice;
2. If petitioner wishes to renew his motion, he shall address the impact of the decision in Cullen v. Pinholster, \_\_\_ U.S. \_\_\_, 131 S. Ct. 1388 (2011) on his request for discovery and/or to expand the record, and shall explain whether he has overcome the limitations imposed under 28 U.S.C. § 2254(d) in light of the evidence presented in state court; and

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3. If petitioner fails to renew his motion for discovery within thirty days from the date of this order, his habeas petition will be deemed submitted for decision without further order of court.

Dated: July 26, 2013

  
\_\_\_\_\_  
DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

DAD:8  
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