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

CHARLES RAY SMITH,

Petitioner,

No. CIV S-09-2967 MCE GGH P

vs.

M. MCDONALD,

ORDER

Respondent.
_____ /

Petitioner is a state prisoner proceeding with appointed counsel with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On October 13, 2011, a hearing was held before the undersigned regarding petitioner’s motion for an evidentiary hearing. Further briefing was ordered in light of the Supreme Court decision in Cullen v. Pinholster, 131 S.Ct. 1388 (2011), and both parties have timely filed briefing. On December 7, 2011, the Ninth Circuit issued an opinion in Gonzalez v. Wong, 2011 WL 6061514 (9th Cir. Dec. 7, 2011), that discussed Pinholster and ultimately ordered the district court to stay the case and remand a claim back to state court for exhaustion after additional information was found in discovery during the federal proceedings.

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