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

CHARLES RAY SMITH,

Petitioner,

Case No. 2:09-cv-02967-MCE-GGH-P

v.

M. MCDONALD,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.


On January 15, 2013, the Magistrate Judge filed findings and recommendations herein (ECF No. 53) which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Petitioner has filed a notice of non-objections to the findings and recommendations. (ECF No. 54.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendations to be supported by the record and by proper analysis.

1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. The findings and recommendations (ECF No. 53) filed January 15, 2013, are
3 ADOPTED IN FULL;
- 4 2. The Request for Lift of Stay (ECF No. 52), imposed by order of April 9, 2012,
5 (ECF No. 51) is GRANTED and the stay is lifted;
- 6 3. Petitioner's request to dismiss his Strickland ineffective assistance of counsel
7 claim is GRANTED;
- 8 4. A certificate of appealability is DENIED in regard to the Strickland
9 claim;
- 10 5. A certificate of appealability is GRANTED for the Chronic claim; and
- 11 6. Final judgment is entered, and the Clerk of the Court is directed to close the
12 case.

13 DATED: March 8, 2013

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17 MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT JUDGE