

1 DANIEL J. BRODERICK, #89424  
 Federal Defender  
 2  
 3 CAROLYN M. WIGGIN, Bar #182732  
 Assistant Federal Defender  
 Designated Counsel for Service  
 4 801 I Street, 3rd Floor  
 Sacramento, California 95814  
 5 Telephone: (916) 498-5700

6  
 7 Attorney for Petitioner  
 CHARLES H. CARR, JR.  
 8  
 9

10 IN THE UNITED STATES DISTRICT COURT  
 11 FOR THE EASTERN DISTRICT OF CALIFORNIA  
 12  
 13

14 CHARLES H. CARR, JR.,	)	NO. 2:10-cv-01778-MCE-JFM
15 Petitioner,	)	
16 v.	)	STIPULATION AND ORDER STAYING CASE
	)	UNTIL OCTOBER 21, 2011
17 MATTHEW CATE, Warden,	)	
18 Respondent.	)	
19 _____	)	Judge: Hon. John F. Moulds

20  
 21 Petitioner, CHARLES H. CARR, JR., by and through counsel, Assistant Federal Defender Carolyn  
 22 M. Wiggin, and Respondent, Warden MATTHEW CATE, by and through counsel, Deputy Attorney  
 23 General Pamela B. Hooley, hereby stipulate to and jointly request a stay of the proceedings in this matter  
 24 until October 21, 2011.

25 This request is made because Mr. Carr is currently on parole pursuant to this Court's order in  
 26 related case nos. 2:04-cv-00584-MCE-JFM, 2:05-cv-01870-MCE-JFM, and 2:05-cv-01871-MCE-JFM.  
 27 On June 28, 2011, the Ninth Circuit reversed the judgments in those three cases and remanded the cases to

1 this Court for further proceedings. *See Carr v. Sisto*, No. 09-15615, *Carr v. Woodford*, No. 09-15616,  
2 and *Carr v. Horel*, No. No. 09-15617. Rather than immediately seek Mr. Carr's return to state prison, the  
3 California Board of Parole Hearings ("BPH") has agreed to give Mr. Carr a "Not in Custody," or "NIC"  
4 hearing on September 21, 2011. At that hearing BPH officials will decide whether or not they are willing  
5 to allow Mr. Carr to remain on parole for the remainder of his parole term. If the BPH decides that Mr.  
6 Carr can remain on parole for the remainder of his parole term, after which he will be discharged from  
7 parole if he successfully serves his parole term, then this case and the related district court cases will  
8 become moot.

9 In order to conserve judicial resources, the parties ask that the Court stay this case until the parties  
10 know the outcome of the September 21, 2011 hearing. The parties further ask that the current pleading  
11 schedule be vacated. The parties ask that this case be stayed until October 21, 2011, on which date the  
12 parties will file status reports regarding the outcome of the September 21, 2011, hearing, and the need, if  
13 any, for any further pleadings or briefs.

14  
15 Respectfully submitted,

16 DANIEL BRODERICK  
17 Federal Defender

18 Dated: July 22, 2011

19 /s/ Carolyn M. Wiggin  
20 CAROLYN M. WIGGIN  
21 Assistant Federal Defender

22 Attorneys for Petitioner  
23 CHARLES H. CARR

24 KAMALA D. HARRIS  
25 Attorney General of the State of California

26 Dated: July 22, 2011

27 /s/ Pamela B. Hooley  
28 PAMELA B. HOOLEY  
Deputy Attorney General

Attorneys for Respondents

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ORDER

Pursuant to the parties' stipulation, and good cause appearing therefor, it is hereby ORDERED that this matter is stayed until October 21, 2011, and the current pleading schedule is VACATED. On October 21, 2011, the parties shall file status reports regarding the outcome of the September 21, 2011, hearing, and the need, if any, for any further pleadings or briefs.

IT IS SO ORDERED.

Dated: July 28, 2011.

  
UNITED STATES MAGISTRATE JUDGE

carr1778.sty