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

LOUIS VOTINO,

Petitioner,

No. 2:10-cv-1784 MCE-JFM (HC)

vs.

FRANCISCO JACQUEZ,

Respondent.

FINDINGS AND RECOMMENDATIONS

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Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By order filed October 19, 2010, this matter was stayed pending exhaustion of state remedies as to petitioner’s claim of newly discovered evidence of actual innocence and petitioner was directed to file a motion to lift the stay within thirty days from the date of any order by the California Supreme Court resolving that claim.

On March 28, 2012, petitioner filed a first amended petition for writ of habeas corpus. By order filed April 19, 2012, this court construed that petition as including a motion to lift the stay of this action and set a briefing schedule on the motion. On May 4, 2012, respondent filed a statement of non-opposition to the motion to lift the stay.

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1                   Accordingly, good cause appearing, IT IS HEREBY RECOMMENDED that  
2 petitioner's motion to lift the stay be granted and this matter referred back to the undersigned for  
3 further proceedings.

4                   These findings and recommendations are submitted to the United States District  
5 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen  
6 days after being served with these findings and recommendations, any party may file written  
7 objections with the court and serve a copy on all parties. Such a document should be captioned  
8 "Objections to Magistrate Judge's Findings and Recommendations." The parties are advised that  
9 failure to file objections within the specified time may waive the right to appeal the District  
10 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

11 DATED: May 24, 2012.

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14 UNITED STATES MAGISTRATE JUDGE

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