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

CARLOS MOSQUEDA,

Petitioner,

No. CIV S-11-0745 KJM GGH P

vs.

MICHAEL MARTEL,

Respondent.

ORDER

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

On June 15, 2011, the magistrate judge filed findings and recommendations, 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. Neither party has filed objections to the findings and recommendations.

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1 The court presumes that any findings of fact are correct. *See Orand v. United*
2 *States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are
3 reviewed de novo. *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir.
4 1983). Having carefully reviewed the file, the court finds the findings and recommendations to
5 be supported by the record and by the proper analysis.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. The findings and recommendations filed June 15, 2011, are adopted in full;
- 8 2. Petitioner's motion for a stay under Rhines v. Weber, 544 U.S. 269, 125 S.Ct.
9 1528 (2005), filed on March 18, 2011, is GRANTED, pending exhaustion of his ineffective
10 assistance claim;
- 11 3. Petitioner shall inform this court and file a request to lift the stay within
12 twenty-eight days of a decision by the California Supreme Court concluding state habeas review.
13 Failure to timely inform the court will result in dismissal of the federal claim; and
- 14 4. The Clerk of Court shall administratively close this case for purposes of case
15 status pending exhaustion.

16 DATED: September 12, 2011.

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20 UNITED STATES DISTRICT JUDGE
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