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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

REGINALD THOMAS BUNN, JR.,
Petitioner,
v.
RAUL LOPEZ,
Respondent.

No. 2:11-cv-1373 MCE CKD P (TEMP)

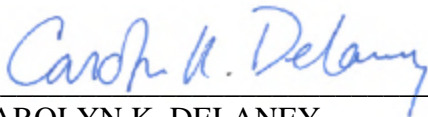
ORDER

Petitioner is a state prisoner proceeding through counsel with a petition for a writ of habeas corpus under 28 U.S.C. § 2254. By order dated January 28, 2016, this court ordered the parties to file supplemental briefing addressing petitioner’s claim that his sentence of life without parole plus 25 years-to-life constitutes cruel and unusual punishment, in light of the recent decision of the United States Supreme Court in Montgomery v. Louisiana, No. 14-280, 2016 WL 280758 (USSC Jan. 25, 2016) and the decision of the California Supreme Court in People v. Gutierrez, 58 Cal.4th 1354 (2014). Petitioner filed his supplemental brief on February 9, 2016, and respondent filed his brief on March 9, 2016. In his brief, respondent argues that petitioner’s Eighth Amendment Claim has been rendered unexhausted in light of Montgomery and Miller v. Alabama, ___ U.S. ___, 132 S. Ct. 2455 (2012). After a review of the record and the relevant law, the court intends to recommend that this action be administratively stayed in order to allow petitioner to exhaust his Eighth Amendment claim in state court. See Rhines v. Weber, 544 U.S.

1 269 (2005); King v. Ryan, 564 F.3d 1133 (9th Cir. 2009). However, before issuing findings and
2 recommendations to that effect, the court will grant the parties the opportunity to express any
3 objections they may have to imposing a stay of this action.

4 Accordingly, IT IS ORDERED that within fourteen days from the date of this order, the
5 parties may file briefs stating their objections, if any, to a stay of this action for the purpose of
6 allowing petitioner to exhaust his Eighth Amendment claim in state court. If the parties agree that
7 a stay is advisable, they may file a stipulation to that effect.

8 Dated: March 17, 2016

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10 _____
11 CAROLYN K. DELANEY
12 UNITED STATES MAGISTRATE JUDGE

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