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

PEDRO JOAQUIN OLIVAS,

Petitioner,

No. 2:11-cv-1420 KJN P

vs.

MATTHEW CATE,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding without counsel, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with a motion for stay and abeyance under Rhines v. Weber, 544 U.S. 269 (2005).

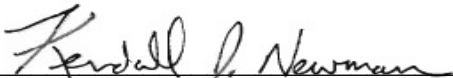
The application attacks a conviction issued by the San Mateo County Superior Court. While both this Court and the United States District Court in the district where petitioner was convicted have jurisdiction, see Braden v. 30th Judicial Circuit Court, 410 U.S. 484 (1973), any and all witnesses and evidence necessary for the resolution of petitioner’s application are more readily available in San Mateo County. Id. at 499 n.15; 28 U.S.C. § 2241(d).

Finally, although the court provided petitioner with an application to proceed in forma pauperis, petitioner has failed to file an application to proceed in forma pauperis or pay the court’s filing fee.

1 Accordingly, in the furtherance of justice, IT IS HEREBY ORDERED that:

- 2 1. Petitioner has not filed an application to proceed in forma pauperis or paid the
3 court's filing fee; and
4 2. This matter is transferred to the United States District Court for the Northern
5 District of California.

6 DATED: June 24, 2011

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9 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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