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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL SANUDO,
Petitioner,
v.
FRED FOULK,
Respondents.

No. 2:14-cv-0068 GEB AC P

ORDER AND FINDINGS AND
RECOMMENDATION

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

On April 7, 2014, the undersigned issued findings and recommendations regarding petitioner’s motion to stay and abey his federal habeas corpus petition pending exhaustion of state court remedies. ECF No. 3. During the objection period, petitioner filed a motion to lift the stay based on the California Supreme Court’s order entered on April 9, 2014. ECF No. 18. Concurrent to the filing of the motion, petitioner also filed a first amended habeas petition, ECF No. 17, and a motion to exceed the word count for the amended petition, ECF No. 19.

Accordingly, IT IS HEREBY ORDERED that:

1. The April 7, 2014 findings and recommendation are vacated; and,
2. Petitioner’s motion to exceed the word count for the first amended federal habeas

1 petition (ECF No. 19) is granted.

2 IT IS FURTHER RECOMMENDED that:

- 3 1. Petitioner's motion to stay his federal habeas petition (ECF No. 3) be denied as moot;
- 4 2. Respondent's motion to dismiss the original mixed petition without prejudice (ECF
5 No. 13) also be denied as moot;
- 6 3. Petitioner's motion to lift the stay (ECF No. 18) be denied as unnecessary since no stay
7 was ever entered by the district court; and,
- 8 4. Respondent be directed to file an answer to the first amended federal habeas corpus
9 petition (ECF No. 17) within 60 days of the adoption of the instant findings and recommendation
10 by the district court judge.

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

19 DATED: April 30, 2014

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21 ALLISON CLAIRE
22 UNITED STATES MAGISTRATE JUDGE
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