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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD JOSEPH PEREIRA,
Petitioner,
v.
GARY SWARTHOUT, Warden,
Respondent.

No. 2:14-cv-0530 LKK AC P

ORDER

Petitioner, a state prisoner proceeding pro se, 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 14, 2014, plaintiff filed a request for reconsideration of that portion of the magistrate judge’s order filed April 4, 2014, denying petitioner’s motion for appointment of counsel without prejudice. Pursuant to E.D. Local Rule 303(f), a magistrate judge’s orders shall be upheld unless “clearly erroneous or contrary to law.” *Id.* Upon review of the entire file, the court finds that it does not appear that the magistrate judge’s ruling was clearly erroneous or contrary to law. Accordingly, the order will be affirmed.


On April 29, 2014, the magistrate judge filed findings and recommendations herein which were served on petitioner and which contained notice to petitioner that any objections to the findings and recommendations were to be filed within twenty-one days. Petitioner has not filed

1 objections to the findings and recommendations. The court has reviewed the file and finds the
2 findings and recommendations to be supported by the record and by the magistrate judge's
3 analysis. Accordingly, they will be adopted in full.

4 In accordance with the above, IT IS HEREBY ORDERED that:

- 5 1. The April 4, 2014 order of the magistrate judge denying petitioner's motion for
6 appointment of counsel is affirmed;
- 7 2. The findings and recommendations filed April 29, 2014, are adopted in full;
- 8 3. Grounds 1 through 3 and 5 through 9 are deemed stricken from the original petition;
- 9 4. Petitioner's request for a stay and abeyance (ECF No. 12) is granted;
- 10 5. The petition, containing only ground 4, is stayed pursuant to Kelly v. Small, 315 F.3d
11 1063 (9th Cir. 2003), and King v. Ryan, 564 F.3d 1133 (9th Cir. 2009);
- 12 6. Upon receiving the ruling of the California Supreme Court exhausting petitioner's as-
13 yet unexhausted grounds, petitioner is required, within thirty days thereafter;
 - 14 a. to inform this court of any such ruling and to request the stay be lifted; and
 - 15 b. to file an amended federal petition containing all of his exhausted claims.

16 DATED: June 4, 2014.

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20 LAWRENCE K. KARLTON
21 SENIOR JUDGE
22 UNITED STATES DISTRICT COURT
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