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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	KENNETH O. OWENS,	No. 2:15-cv-01286-KJM-GGH
12	Petitioner,	
13	V.	ORDER
14	PEOPLE OF THE STATE OF CALIFORNIA, et al.,	
15	Respondents.	
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17	On January 28, 2016, petitioner filed a letter that seemed to seek relief from the court's	
18	judgment dismissing the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF	
19	No. 14. As a part of petitioner's motion, he requested reconsideration of the court's decision to	
20	deny his motion for a stay and abeyance. Id. On February 8, 2016, the undersigned	
21	recommended that petitioner's filing be denied to the extent it could be construed as a motion for	
22	relief from judgment. ECF No. 15. The court recommended that petitioner's motion be denied	
23	because the petition contained only unexhausted claims. Id. Accordingly, the court found that	
24	the petition could not be held in stay and abeyance in accordance with <u>Rhines v. Weber</u> , 544 U.S.	
25	269 (2005) because <u>Rhines</u> stays are only available for mixed petitions. <u>Id.</u>	
26	On February 17, 2016, the Ninth Circuit issued a decision holding that "a district court has	
27	the discretion to stay and hold in abeyance fully unexhausted petitions under the circumstances	
28	set forth in [Rhines v. Weber, 544 U.S. 269 (2005)]." <u>Mena v. Long</u> , 813 F.3d 907 (9th Cir.
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1	2016). On March 21, 2016, the presiding district judge declined to adopt the undersigned's
2	recommendations because of the Ninth Circuit's holding in Mena. ECF No. 16. Instead, the
3	district judge instructed the undersigned to reconsider petitioner's motion in light of Mena. Id. In
4	accordance with the district judge's order, the court will give petitioner the opportunity to file a
5	second motion for relief from judgment taking Mena's recent holding into consideration. If
6	petitioner does not file a second motion within thirty days of its service, the court will reconsider
7	his existing motion for relief from judgment (ECF No. 14) in light of Mena. Petitioner is advised
8	that he must show good cause for the belated exhaustion of presently unexhausted claims he now
9	desires to pursue.
10	Accordingly, IT IS HEREBY ORDERED that:
11	1. Petitioner shall file a second motion for relief from judgment, if any, within thirty days
12	of the service of this order.
13	Dated: March 28, 2016
14	/s/ Gregory G. Hollows
15	UNITED STATES MAGISTRATE JUDGE
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