

1 **II. Legal Standards**

2 The United States Supreme Court has clearly indicated that “the power to stay
3 proceedings is incidental to the power inherent in every court to control the disposition of the
4 causes on its docket with economy of time and effort for itself, for counsel, and for litigants.
5 How this can best be done calls for the exercise of judgment, which must weigh competing
6 interest and maintain an even balance.” Landis v. North American Co., 299 U.S. 248, 254-55
7 (1936). In this regard, “the proponent of the stay bears the burden of establishing its need.”
8 Clinton v. Jones, 520 U.S. 681, 706 (1997).

9 **III. Analysis**

10 It appears that plaintiff seeks a stay in the instant case because he believes that if the court
11 were to grant his petition for writ of habeas corpus, his claim in this action would no longer be
12 barred by Heck v. Humphrey, 512 U.S. 477, 486-87 (1994).¹ However, court records indicate
13 that the undersigned has recommended that plaintiff’s petition for writ of habeas corpus be
14 dismissed as frivolous. See Bland v. Warden, 2:21-cv-0518 TLN DB (E.D. Cal.) (ECF No. 15).
15 The findings and recommendations remain pending before the district court at this time.

16 “A stay should not be granted unless it appears likely the other proceedings will be
17 concluded within a reasonable time in relation to the urgency of the claims presented to the
18 court.” Leyva v. Certified Grocers of California, Ltd., 593 F.2d 857, 864 (9th Cir. 1979).
19 Plaintiff has failed to show why a stay of these proceedings is necessary. Because the
20 undersigned has recommended that his habeas petition be denied, it does not appear likely that he
21 will prevail in having his state criminal conviction overturned in the near future. Plaintiff has not
22 shown that an indefinite stay is appropriate. Accordingly, the court will recommend that
23 plaintiff’s motions for stay be denied.

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26 ¹ In Heck, the Supreme Court held that a plaintiff cannot maintain a § 1983 action to recover
27 damages for “harm caused by actions whose unlawfulness would render [his] conviction or
28 sentence invalid” when his sentence and conviction have not previously been reversed, expunged,
declared invalid, or called into question upon issuance of a writ of habeas corpus by a federal
court.


1 To the extent plaintiff challenges this court’s jurisdiction, he is advised that adverse
2 rulings are not sufficient to divest the court of its jurisdiction. See Pesnell v. Arsenault, 543 F.3d
3 1038, 1043 (9th Cir. 2008), abrogated on other grounds in Simmons v. Himmelreich, 136 S. Ct.
4 1843 (2016) (“[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality
5 motion.”).

6 **IV. Conclusion**

7 For the reasons set forth above, IT IS HEREBY RECOMMENDED that plaintiff’s
8 motions for stay (ECF Nos. 45, 49) be denied.

9 These findings and recommendations are submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty (20) days
11 after being served with these findings and recommendations, plaintiff may file written objections
12 with the court and serve a copy on all parties. Such a document should be captioned “Objections
13 to Magistrate Judge's Findings and Recommendations.” Plaintiff is advised that failure to file
14 objections within the specified time may waive the right to appeal the District Court's order.
15 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

16 Dated: September 19, 2022

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19 DEBORAH BARNES
20 UNITED STATES MAGISTRATE JUDGE

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