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United States District Court  
For the Northern District of California

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

OSCAR GATES,  
Petitioner,  
v.  
KEVIN CHAPPELL, Warden,  
Respondent.

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No. C 88-2779 WHA  
**ORDER RE CASE MANAGEMENT  
CONFERENCE**

This matter was stayed in 2004 following an adjudication of mental incompetency, based on *Rohan ex. rel. Gates v. Woodford* ("*Gates*"), 334 F.3d 803 (9<sup>th</sup> Cir. 2003).<sup>1</sup> At that time, attorneys for petitioner and respondent agreed that petitioner was incompetent. On January 8, 2013, the Supreme Court decided *Ryan v. Gonzales*, abrogating *Gates* and holding that an incompetent capital prisoner has no right to an indefinite stay of habeas proceedings. 133 S. Ct. 696, 706-709. The Supreme Court further held that while the decision to grant a temporary stay is within the discretion of the district court, an indefinite stay is inappropriate if there is no reasonable hope the petitioner will regain competence in the foreseeable future. *Id.*

Pursuant to *Ryan*, this Court ordered the parties to meet and confer regarding whether the stay in this matter should be lifted. Petitioner maintains that the stay should be continued for a finite amount of time in order for the parties to address whether petitioner can be returned

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<sup>1</sup> Petitioner was also adjudicated to be mentally incompetent in 1994, as part of the proceedings in this habeas matter, and in 1973, in a prior state criminal matter.

1 to competency. Respondent counters that, without a proffer as to petitioner's amenability to  
2 treatment and potential for restoration to competency, the stay ought to be lifted immediately  
3 and the proceedings recommenced.

4 Having reviewed the parties' submissions, the Court hereby ORDERS the parties to  
5 appear on May 16, 2013 at 11:00 am for a Case Management Conference regarding subsequent  
6 proceedings in this matter. In addition to the issues noted above, the parties should be prepared  
7 to discuss, *inter alia*, whether another next friend should be appointed in this matter, and  
8 whether this matter should be referred for settlement discussions. *See, e.g., McPeters v.*  
9 *Chappell*, 2013 WL 360260, \*7 (E.D. Cal., Jan. 29, 2013).

10 The parties are also ORDERED to submit a joint case management statement,  
11 addressing any of the above-mentioned issues not covered by the already-submitted pleadings,  
12 no later than ten days prior to the CMC.

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15 **IT IS SO ORDERED.**

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17 Dated: April  2 , 2013.

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19 WILLIAM ALSUP  
20 UNITED STATES DISTRICT JUDGE  
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