

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3
4 JUAN MATIAS TORRES,
5 Petitioner,
6 v.
7 RALPH M. DIAZ, Warden,
8 Respondent.

Case No. [12-cv-06224-YGR](#) (PR)

**ORDER DENYING PETITIONER'S
REQUESTS FOR A CERTIFICATE OF
APPEALABILITY AND FOR A STAY IN
PROCEEDINGS**

9 This is a habeas case under 28 U.S.C. § 2254 filed *pro se* by a state prisoner. Petitioner
10 has filed an amended petition raising the same three claims from his original petition as well as six
11 additional new claims. Dkt. 59. The Court granted Respondent's motion to dismiss the six new
12 claims (claims 6-9) as untimely under the one-year statute of limitations established by the
13 Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"). Dkt. 74. The Court noted
14 that it would resolve remaining timely claims (claims 1-3) in a separate written Order. *Id.* at 16.

15 Petitioner has filed a notice of appeal and a request for a certificate of appealability
16 ("COA") "on all the new claims in the amended petition." Dkts. 75, 76. He also requests a stay in
17 proceedings pending the Court's ruling on his motion for a COA. Dkt. 80.

18 Petitioner's motion for a COA is DENIED as premature. Dkt. 76. A COA is granted or
19 denied only when the Court issues a final order disposing of a petition for writ of habeas corpus
20 and enters judgment. *See* 28 U.S.C. § 2253(c)(1). Because the three remaining claims in
21 Petitioner's amended petition are pending, his request for a COA is premature. The Court will
22 issue or decline to issue a COA when it resolves claims 1-3. Furthermore, because the Court has
23 ruled on the pending motion for a COA, no stay is warranted. Therefore, Petitioner's request for a
24 stay is DENIED. Dkt. 80. The Clerk of the Court shall terminate Docket nos. 76 and 80.

25 IT IS SO ORDERED.

26 Dated: July 11, 2017

27 
28 YVONNE GONZALEZ ROGERS
United States District Judge