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6 **UNITED STATES DISTRICT COURT**
7 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
8 **SAN JOSE DIVISION**
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10 Ronald Lee BELL, JR.,

11 Petitioner,

12 v.

13 Kevin CHAPPELL,
14 Acting Warden of San Quentin State Prison,

15 Respondent.

Case No. C99-20615

DEATH-PENALTY CASE

ORDER REFERRING CASE TO
MAGISTRATE

16 On November 14, 2013, the parties filed a joint statement proposing various ways this
17 case should proceed in light of petitioner's medical condition. (ECF Doc. No. 221) Petitioner
18 suffers from dementia, as well as other physical ailments. (ECF Doc. No. 218) The parties agree
19 that he is currently incompetent, that his condition will not likely improve in the future, and that
20 he may also be incompetent to be executed within the meaning of *Ford v. Wainwright*, 477 US.
21 399 (1986). (ECF Doc. No. 221 at 2, 4). The parties disagree however, as to how the case
22 should proceed. Petitioner suggests that the Court refer this case to a magistrate judge for
23 settlement purposes, or alternately, stay proceedings and direct petitioner to submit annual
24 reports on his medical condition. *Id.* at 2. Respondent asserts that a stay is inappropriate under
25 *Ryan v. Gonzalez*, 133 S. Ct. 696 (2013), and that the case should instead "proceed to decision."
26 *Id.* at 4. Respondent further rejects petitioner's suggestion that proceedings be referred to a
27 magistrate judge for settlement, noting that petitioner could not knowingly enter into "deal" with
28 the State if he is truly incompetent, and that the State, in turn, does not have authority to agree to
a modification of an affirmed judgment. *Id.* at 5-6.

1 The Court agrees that the grant of a stay is precluded by *Gonzalez*, 133 S. Ct. at 708-09
2 (stay is inappropriate where there is no hope that a petitioner might regain competence.)
3 Nonetheless, the Court finds that litigating this case in light of petitioner’s condition would
4 constitute an unnecessary waste of resources. Accordingly, the Court refers the case to
5 Magistrate Judge Laurel Beeler for a settlement conference. Other courts in this District have
6 taken the same approach when faced with incompetent prisoners. *See, e.g., Gates v. Chappell*,
7 No. 88-2779 WHA (N.D. Cal. May 16, 2013); *Stanley v. Chappell*, No. C07-4727 EMC (N.D.
8 Cal. Oct. 25, 2013) The Court strongly urges both parties to participate in good faith.

9 IT IS SO ORDERED.

10
11 DATED: _____


RONALD M. WHYTE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

BELL,

Plaintiff,

v.

CHAPPELL,

Defendant.

Case Number: CV99-20615 RMW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 18, 2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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Dated: February 18, 2014

Richard W. Wieking, Clerk
By: Jackie Lynn Garcia, Deputy Clerk