

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MICHAEL RAYMOND SUA,

vs.
JAMES TILTON,

Petitioner,


Respondent.

CASE NO. 07cv1338 JM(BLM)
ORDER DENYING MOTION FOR
STAY WITHOUT PREJUDICE

On or about February 26, 2010, the court received from Petitioner a motion to stay these proceedings. The court denies the motion without prejudice because the court is divested of subject matter jurisdiction to entertain Petitioner’s merits-based motion. This action is presently on appeal before the Ninth Circuit. Until the district court receives the mandate from the Ninth Circuit transferring jurisdiction back the district court, the court lacks jurisdiction to entertain the motion to stay. See Nascimento v. Dummer, 508 F.3d 905, 908 (9th Cir. 2007). Accordingly, the motion to stay the proceedings is denied without prejudice.

IT IS SO ORDERED.

DATED: March 8, 2010


Hon. Jeffrey T. Miller
United States District Judge

cc: All parties